Supreme Court, U.S.
FILED
07-1148 MAR 6 - 2008
OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

SUZETTE RICHARDS,

Petitioner,

V.

DUKE UNIVERSITY, ET AL,

Respondents.

On Petition For Writ of Certiorari
To The United States Court of Appeals
For The District of Columbia Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. May a federal court dismiss claims of race and gender based discrimination, which arise under the Constitution and laws of the United States, on the grounds that the claims constitute bizarre conspiracy theories, and are therefore fanciful and fictitious, warranting dismissal for lack of subject matter jurisdiction?

2. Must a civil rights plaintiff do more than give the defendants notice of her claims, i.e., must she satisfy a heightened pleading standard when faced with a Rule 12(b)(6) motion to dismiss?

LIST OF PARTIES

The parties in this case include Petitioner, Suzette Richards, and the following Respondents: Duke University ("Duke"), Duke University School of Law ("Duke Law"), Duke University Board of Trustees, and Nannerl Keohane (collectively "Duke Respondents"); Georgetown University and Georgetown University Law Center ("Georgetown Law"), (collectively "Georgetown Respondents"); Michael Mukasey, in his official capacity as Attorney General of the United States, the Federal Bureau of Investigation, the U.S. Department of Justice, and John and Jane Does 1-10 (collectively "Government Respondents"); and William H. Gates, III, Steve Ballmer, Microsoft Corporation, and Melinda Gates (collectively "Microsoft Respondents").

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OPINIONS BELOW

The order of the Court of Appeals for the District of Columbia Circuit, which summarily affirmed the District Court opinion, is unreported. It has been reprinted in the Appendix at 31-33. The District Court's opinion is reported at *Richards v. Duke Univ.*, 480 F. Supp. 2d 222 (D.D.C. 2007). It has been reprinted in the Appendix at 34-72.

JURISDICTION

The D.C. Circuit entered its order summarily affirming the district court's opinion on August 27, 2007. Thereafter, the D.C. Circuit entered its order denying Petitioner's request for a panel rehearing on December 7, 2007. This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 1254(1).

FEDERAL RULES OF CIVIL PROCEDURE INVOLVED

Rule 8(a)(2) of the Federal Rules of Civil Procedure, provides, in relevant part, that "[a] pleading. . . shall contain. . .a short and plain statement of the claim showing that the pleader is entitled to relief. . ."

Rule 12(b)(1) of the Federal Rules of Civil Procedure provides that a party may move for the dismissal of a pleading for "lack of jurisdiction over the subject matter."

Rule 12(b)(6) of the Federal Rules of Civil Procedure provides that a party may move for dismissal

of a pleading for "failure to state a claim upon which relief may be granted."

STATEMENT OF THE CASE

Ms. Richards commenced this action to obtain relief for outrageous acts of discrimination that she was subjected to for a more than five year period of time. She sought to recover for violations of her First, Fourth, Fifth, Eight and Thirteenth Amendments rights, as well as for violations of 18 U.S.C. §§ 2510-2522, 20 U.S.C. §§ 1681-1688, 42 U.S.C. § 1981, 42 U.S.C. § 1985, 42 U.S.C. § 1986, and 42 U.S.C. §§ 2000d-2000d-7. She also sought to recover for acts of fraud, civil conspiracy, intentional infliction of emotional distress, invasion of privacy, interference with prospective advantage, and theft of intellectual property. The district court had subject matter jurisdiction to hear the federal claims pursuant to 28 U.S.C. § 1331, and supplemental jurisdiction to hear the state related claims pursuant to 28 U.S.C. § 1367(a).

A. Statement of the Facts

The facts have been drawn from the First Amended Complaint which has been reprinted in the Appendix at 73-135. Ms. Richards is an alumna of Duke. First Am. Compl. at ¶ 29. After Ms. Richards graduated from high school in 1992, she matriculated to Duke, and approximately four years later, having completed her undergraduate studies, she graduated from Duke in May of 1996. *Id.* at ¶¶ 27-28. Ms. Richards then returned to the Duke community in the Fall of 1997 to attend law school

at Duke Law. *Id.* at ¶ 30. Ms. Richards' Complaint in this matter stems from the discrimination she experienced while she was a first year law student at Duke Law.

Ms. Richards had realized, from her first year of law school, that Duke Law had in place a system of discrimination, that had been used to discriminate against minorities, particularly black students, for the more than twenty (20) years that black students had attended the school. *Id.* at ¶¶ 35-36, 107. As a result of this system of discrimination, black students had been excluded from participation on the school's two most prestigious journals, received lower grades than white students, and had been denied the honors they would otherwise have received if it were not for the system of discrimination. *Id.* at ¶¶ 107-08, 112, 117. The discrimination also had the effect of preventing minorities from obtaining certain jobs considered to be prestigious in the legal profession, like clerkships on the federal appellate and district court level. *Id.* at ¶ 111.

As a first year law student, Ms. Richards discovered that one of the ways Duke Law facilitated this overall system of discrimination was by lying to students about how to take exams. *Id.* at ¶¶ 105-06. However, some background is necessary to truly understand what it meant by this statement. As of the beginning of the 1997-1998 school year, which was Ms. Richards' first year of law school, there had never been a black student that had served on either the Duke Law Journal ("DLJ") or the Law and Contemporary Problems ("LCP"), which are two of the most prestigious journals at Duke Law, in the more than twenty years that black students had attended the school. *Id.* at ¶¶ 107-08. At the begin-

ning of Ms. Richards' first year of law school, a second year black student had explained to Ms. Richards that the reason that there had never been a black person on these journals, in all the years that black students had attended the school, was because black students did not know how to take exams. *Id.* at ¶ 113. Indeed, during the 1996-1997 school year, which was the year *immediately before* Ms. Richards had started law school, a group of law professors at Duke Law had even taken it upon themselves to volunteer to "help" and work with black students so they could learn how to take exams and do well enough to secure placement on the DLJ and other journals at Duke Law. *Id.* at ¶ 119. Of course, however, even with this "help", and even though all or almost all of the black first year law students competed in the school's write on competition, no black student did well enough to secure placement on either the DLJ or the LCP. *Id.* at ¶¶ 120-21. In fact, upon information and belief, even with this "help" no black student did well enough to secure placement on any of the school's journals at the end of the 1996-1997 school year. *Id.* at ¶ 122.

This is the context in which Ms. Richards began her first year of law school at Duke Law in the Fall of 1997. It was later on, in the Fall of 1997, that Dean Susan Sockwell, who was the Dean of Students at the time, gave students instructions on how they should take their law school examinations. *Id.* at ¶ 106. Interestingly enough, black students who had been supposedly "helped" by law professors during the 1996-1997 school year, also instructed black first year students to take their examinations in the same manner that Dean Sockwell had instructed. *Id.*. at ¶ 123. Ms. Richards, however, de-

cided to take her first year exams in the way that she did because of the instructions that she had received from Dean Sockwell. *Id.* at ¶ 124.

After Ms. Richards received her grades from the three exams that she had taken during her first semester of law school, they were lower than she had expected and this prompted her to ask her law professors to allow her to see the examinations of the students who had received the highest grades in the class so she could see how they had taken their examinations. *Id.* at ¶ 125. Only two of Ms. Richards' professors, however, allowed her to see the examinations. *Id.* at ¶ 126. Ms. Richards' third professor, who was the professor that had taught her Contracts, refused to let her see the examinations of the students who had received the highest grades in the class. *Id.* at ¶ 128. It should be noted that Ms. Richards' Contracts' professor was one of the professors who had volunteered to supposedly "help" black students learn how to take exams during the 1996-1997 school year. *Id.* at ¶ 132.

Nevertheless, when Ms. Richards reviewed the exams of the students who had received the highest grades in two of the three courses that she had taken during her first semester, she realized that the persons who had received the highest grades in the class were persons who did NOT take their law school examinations in the way that Dean Sockwell had instructed. *Id.* at ¶ 127. Thereafter, because Ms. Richards had relied on Dean Sockwell's fraudulent misrepresentation about how to take law school exams and further felt that Dean Sockwell's actions were discriminatory, she went to speak to Dean Sockwell about the instructions she had given. *Id.* at ¶ 124, 133. Although Dean Sockwell acted as

though she did not know her instructions were fraudulent, and that she had made an innocent error, she did absolutely nothing to correct her misrepresentations, and final exams, at that time, were about one (1) month away. *Id.* at ¶ 136-37. Ms. Richards, who was so disgusted with the racism and bigotry at Duke Law, and other discriminatory acts that she had experienced, decided to e-mail all of the black students who were on the Black Law Students Association e-mail list what she had learned about the taking of law school exams. *Id.* at ¶ 138. Though Ms. Richards had considered suing Duke Law because of the discrimination she experienced during her first year of law school, and even told a classmate about this, she ultimately opted to transfer to Georgetown Law. *Id.* at ¶ 139, 32.

However, the Duke Respondents continued to fear that Ms. Richards would sue the school because of the discrimination that they had subjected her to, which might in turn have exposed the system of discrimination at the school and also lowered the school's rank on the U.S. News and World Report Law School Rankings. *Id.* at ¶ 150. The Dean of Duke Law at the time, Pamela Gann, even told Saundra Dockery, who had supervised Ms. Richards when she worked at a work study job during undergrad at Duke, that she would do "anything" to keep the law school in the top ten. *Id.* at ¶ 156.

At any rate, the Duke Respondents were so afraid that Ms. Richards would file an action against them for discrimination, that they did not just contact Saundra Dockery, but also contacted the Government Respondents, and illegally conspired with the Government Respondents to place Ms. Richards under electronic surveillance so they

could obtain information to continue to discriminate against Ms. Richards, and damage her personally, professionally, and academically, to essentially undermine and discredit any claim of discrimination that Ms. Richards might make against them. *Id.* at ¶¶ 38, 49, 142-43, 147, 178, 186-91. In fact, it was at the end of Ms. Richards first year of law school, in June of 1998, when she first realized that she was being subject to illegal electronic surveillance, because private medical information about her became public. *Id.* at ¶ 165. Over the years, as a result of the illegal electronic surveillance, more private medical information was disseminated while Ms. Richards was a second year law student at Georgetown Law, and after Ms. Richards returned to live in the U.S. Virgin Islands. *Id.* at ¶¶ 60, 62.

It should be noted that from the outset, the surveillance that Ms. Richards has been subjected to, which has included listening devices and video surveillance, was always illegal as there was no basis in law or fact to place Ms. Richards under any electronic surveillance. *Id.* at ¶ 48, 54. In fact, the electronic surveillance that Ms. Richards has been subjected to was never related to any criminal investigation and at no time has there ever been probable cause to place Ms. Richards under any electronic surveillance. *Id.* at ¶ 52-53. Instead, it was Ms. Richards' objection to discriminatory practices at Duke Law that prompted the illegal surveillance that not only allowed the Duke Respondents, the Georgetown Respondents and the Microsoft Respondents to facilitate discrimination against Ms. Richards, but also allowed for private information, including medical information about Ms. Richards, to be disseminated to many people. *Id.* at ¶¶ 60, 68-

69, 71-72. Although Ms. Richards graduated from law school in late May of 2000, the illegal electronic surveillance that she was placed under still continued. *Id.* at ¶¶ 32, 38-40, 43-46, 49.

Nevertheless, the Duke Respondents were also so afraid that Ms. Richards would sue them for discrimination that they not only illegally placed Ms. Richards under electronic surveillance, but also placed one black female student on one of the school's most prestigious journal's, right after Ms. Richards transferred from the school, for the first time in the history of the school. *Id.* at ¶ 110. Still, the Duke Respondents were so afraid that Ms. Richards would sue them for discrimination that they actually contacted and conspired with persons at Georgetown Law to adversely affect Ms. Richards professionally, personally and academically. *Id.* at ¶¶ 39, 59-60, 75, 170, 172-73, 175-79, 186-91. More specifically, persons at Duke Law contacted and conspired with persons at Georgetown Law to adversely affect Ms. Richards' overall educational experience at Georgetown Law, including lowering and adversely affecting Ms. Richards' grades in a number of courses, as well as adversely affecting Ms. Richards' classroom experience, journal experience and job prospects. *Id.* at ¶¶ 147-48, 175-79, 186-91.

Respondent Melinda Gates, who is married to Respondent William H. Gates, III ("Bill Gates"), served on the Duke University Board of Trustees for the entire time that Ms. Richards was being discriminated against, and she was aware of and participated in the discrimination. *Id.* at ¶¶ 196-99. The other Microsoft Respondents were likewise aware of the discrimination Ms. Richards was being

subjected, and they joined in the conspiracy to discriminate against Ms. Richards during her third year of law school. *Id.* at ¶¶ 40, 203-04, 263-64. The Microsoft Respondents intercepted the illegal electronic surveillance that Ms. Richards was being subjected to, and repeatedly used information they learned from the illegal electronic surveillance to exploit Ms. Richards, benefit themselves financially, and also to harass Ms. Richards by putting various things on the company's MSN website and connecting those things to Ms. Richards. *Id.* at ¶¶ 214-20, 223-32, 268-77. As a result of the illegal electronic surveillance, the Microsoft Respondents were able to intercept statements Ms. Richards made about wireless technology in November of 1999, ideas that she had wrote regarding the use of e-mails to generate revenue while in North Carolina in September of 2000, and ideas she wrote about changing the name of Web TV to MSN TV while she was in the Virgin Islands in February or March of 2001. *Id.* at ¶¶ 207-08, 214, 268-70, 273-76.

B. Course of the Proceedings Below

This action was initially filed in the St. Croix Division of the United States District Court for the District of the United States Virgin Islands in May of 2003. The Complaint was then subsequently amended in June of 2003. Thereafter, approximately ten (10) days after the Duke Respondents were served with a copy of the Complaint, Respondent Duke University essentially invoked the subject matter jurisdiction of the court to have Ms. Richards declared incompetent. More specifically, Respondent Duke University filed a motion pursu-

ant to Rule 17(c) of the Federal Rules of Civil Procedure, asking the district court to essentially declare Ms. Richards incompetent and appoint a guardian *ad litem* to represent her in these proceedings, because of the allegations that Ms. Richards' had made in the Complaint. All of the other respondents in this case joined in this motion.

Even though Ms. Richards had argued, from the outset, that the respondents had misconstrued the law, Magistrate Judge Jeffrey Resnick rejected Ms. Richards' arguments and instead ordered that a guardian *ad litem* be appointed to represent her. Thereafter, District Court Judge Thomas Moore affirmed this decision, and Ms. Richards had to file an interlocutory appeal before the Court of Appeals for the Third Circuit to obtain relief. Ultimately, the Third Circuit held that the district court had applied the wrong legal standard, and in light of the fact that it was clear that Ms. Richards was competent to represent herself *pro se*, the Third Circuit vacated the district court order and remanded the case to the district court. *See Richards v. Duke Univ.*, 166 Fed. Appx. 595 (3d Cir. 2006).

On remand, District Court Judge James Giles transferred the case to the United States District Court for the District of Columbia. Thereafter, Judge Royce Lamberth granted the respondents' motions to dismiss. In so doing, Judge Lamberth first granted the Duke Respondents and Respondents Bill Gates, Steve Ballmer, and Melinda Gates' motions to dismiss for lack of personal jurisdiction. App. 39-43. Then, Judge Lamberth stated that though the court did not have personal jurisdiction over the Duke Respondents, or Respondents Bill Gates, Steve Ballmer or Melinda Gates, all of the

counts in the complaint could nevertheless also be dismissed pursuant to Rule 12(b)(1), Rule 12(b)(6), or, in the alternative, the relevant statute of limitations. App. at 43-44.

An appeal was taken to the Court of Appeals for the District of Columbia Circuit. The respondents then filed a joint motion for summary affirmance, which Ms. Richards opposed. The D.C. Circuit granted the respondents' motion, and summarily affirmed the opinion of the district court. Ms. Richards timely petitioned the D.C. Circuit for panel rehearing, but this petition was denied. Ms. Richards has now petitioned this Court for a writ of certiorari to review the decision of the D.C. Circuit.

REASONS FOR GRANTING THE WRIT

I. THE D.C. CIRCUIT HAS DECIDED AN IMPORTANT JURISDICTIONAL QUESTION IN A WAY THAT CONFLICTS WITH DECISIONS FROM THIS COURT AND FOUR OTHER COURTS OF APPEAL

Pursuant to 28 U.S.C. § 1331, a federal court has jurisdiction to hear claims that arise under the Constitution or laws of the United States. 28 U.S.C. § 1331. However, even where a claim invokes federal question jurisdiction under 28 U.S.C. § 1331, the claim may nevertheless be dismissed for lack of subject matter jurisdiction if it is "not colorable, i.e. if it is 'immaterial and made solely for the purpose of obtaining jurisdiction' or is 'wholly insubstantial and frivolous.'" *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 513 n. 10 (2006) (citing *Bell v. Hood*, 327 U.S. 678, 682-83 (1946)).

In *Goosby v. Osser*, 409 U.S. 512 (1973), this Court, called upon to determine when a constitutional claim could be rendered wholly insubstantial because of a prior decision of this Court, stated as follows:

> Constitutional insubstantiality . . .has been equated with such concepts as 'essentially fictitious,' *Bailey v. Patterson*, 369 U.S., at 33, 82 S. Ct.,at 551, 'wholly insubstantial,' ibid.; ' obviously frivolous,' *Hannis Distilling Co. v. Baltimore*, 216 U.S. 285, 288, 30 S. Ct. 326, 327, 54 L. Ed. 482 (1910); and 'obviously without merit,' *Ex parte Poresky*, 290 U.S. 30, 32, 54 S. Ct. 3, 4-5, 78 L. Ed. 152 (1933). The limiting words 'wholly' and 'obviously' have cogent legal significance. In the context of the effect of prior decisions upon the substantiality of constitutional claims, those words import that claims are constitutionally insubstantial only if the prior decisions inescapably render the claims frivolous; previous decisions that merely render claims of doubtful or questionable merit do not render them insubstantial for the purposes of 28 U.S.C. § 2281. A claim is insubstantial only if "its unsoundness so clearly results from the previous decisions of this court as to foreclose the subject and leave no room for the inference that the question sought to be raised can be the subject of controversy." *Ex parte Poresky*, supra, at 32, 54 S. Ct., at 4, quoting from *Hannis Distilling Co. v. Balti more*, supra, 216 U.S., at 288, 30 S. Ct., at 327, *see also*, *Levering & Garrigues Co. v. Morrin*, 289 U.S. 103, 104-05, 53 S. Ct. 549,

550, 77 L. Ed. 1062 (1933); *McGilvra v. Ross*, 215 U.S. 70, 80, 30 S. Ct. 27, 31, 54 L. Ed. 95 (1909).

Goosby, 409 U.S. at 518. Thus, in *Goosby*, this Court essentially held that a constitutional claim could be rendered wholly insubstantial, i.e. frivolous, only if a prior decision of this Court clearly established that the claim had no arguable basis in law. *See id.*

This Court reiterated and even expanded upon this concept, though in a slightly different context, in *Neitzke v. Williams*, 490 U.S. 319 (1989). In *Neitzke*, this Court, in construing the word "frivolous" in what was then 28 U.S.C. § 1915(d), held that "a complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis in law or in fact." *Neitzke*, 490 U.S. at 325. As such, this Court stated that "a court may dismiss a claim as factually frivolous only if the facts alleged are 'clearly baseless'." *Denton v. Hernandez*, 504 U.S. 25, 32 (1992) (citing *Neitzke*, 490 U.S. at 327). This Court also cautioned that while "a finding a factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible", a court may not dismiss a complaint "simply because it finds the plaintiff's allegations unlikely." *Denton*, 504 U.S. at 33.

Nevertheless, despite the foregoing, the D.C. Circuit did not apply the clearly baseless standard that this Court set out in *Neitzke* and *Denton*, i.e. look to see whether the claims had an arguable basis in fact. Instead, the D.C. Circuit applied a standard it carved out in *Best v. Kelly*, 39 F.3d 328 (D.C.

Cir. 1994), which allowed for claims to be dismissed for lack of subject matter jurisdiction if a court found that the claims alleged what the D.C. Circuit called "bizarre conspiracy theories". Thus, in the case *sub judice*, the D.C. Circuit held that the district court "properly determined that the claims, alleging bizarre conspiracy theories, are the sort of fanciful and fictitious claims that would warrant dismissal for lack of subject matter jurisdiction." App. at 32.

However, the claims in the complaint did not constitute any bizarre conspiracy theories, and they were certainly not fanciful or fictitious. In fact, the claims were not even baseless, and they certainly did not rise to the level of being wholly incredible. Rather, the claims simply amounted to discrimination. In the case *sub judice*, Ms. Richards alleged that during her first year of law school she discovered that Duke Law had in place a system that had been used to discriminate against minorities for years, and that one of the ways the school facilitated this system of discrimination was by lying to students about how to take law school exams. First Am. Compl. at ¶¶ 35-36, 105-32. Ms. Richards, who had relied on the fraudulent instructions the school had given, had objected to this practice, but nothing what was done to stop it. *Id.* at ¶¶ 124, 133-37.

Ms. Richards ultimately transferred to Georgetown Law, but persons at Duke Law, in an attempt to retaliate against Ms. Richards for complaining about the school's discriminatory practices, and to further undermine any claim of discrimination that Ms. Richards could make against them, contacted persons at Georgetown Law to adversely affect Ms. Richards' overall educational experience

at Georgetown Law, including lowering and adversely affecting Ms. Richards' grades in a number of courses, as well as adversely affecting Ms. Richards' classroom experience, journal experience and job prospects. *Id.* at ¶¶ 32, 103-04, 147-48, 175-79, 186-91.

Persons at Duke Law even contacted the Government Respondents and conspired with them to place Ms. Richards under continuous illegal electronic surveillance so that they could obtain information to continue to discriminate against Ms. Richards. *Id.* at ¶¶ 38, 49, 68-69, 71. Thereafter, both the Georgetown Respondents and the Microsoft Respondents joined in this conspiracy to place and keep Richards under illegal electronic surveillance, and further illegally intercepted information from this surveillance. *Id.* at ¶¶ 39-40, 60, 207-08, 214, 268-70, 273-76.

As a result of the surveillance, Ms. Richards had private medical information about her disseminated at the end of her first year of law school in June of 1998, while she was a second year law student at Georgetown Law, and after she had returned to live in the U.S. Virgin Islands in December of 2002. *Id.* at ¶¶ 60, 62, 165. The surveillance also allowed the Microsoft Respondents to intercept statements Ms. Richards made about wireless technology in November of 1999, ideas that she had wrote regarding the use of e-mails to generate revenue while in North Carolina in September of 2000, and ideas she wrote about changing the name of Web TV to MSN TV while she was in the Virgin Islands in February or March of 2001. *Id.* at ¶¶ 207-08, 214, 268-70, 273-76.

At any rate, while the D.C. Circuit described

the Complaint as involving bizarre conspiracy theories, which constituted fanciful and fictitious claims, this determination was even contrary to the record in this case, where there were defendants in this case that did not even deny committing the acts alleged in the Complaint. In fact, the Declaration that was submitted by Ms. Kate Hendricks on behalf of Duke University, Duke University School of Law, and the Duke University Board of Trustees, did not deny that persons at Duke Law had contacted the Georgetown Respondents to adversely affect Ms. Richards' grades and overall educational experience at Georgetown Law. *See* App. at 136-39. The Declaration did not even deny that persons at Duke Law had contacted the Government Respondents to place Ms. Richards under illegal electronic surveillance, or that the information obtained from the surveillance was used to discriminate against Ms. Richards. *Id.*

Similarly, Respondent Nannerl Keohane, who was the President of Duke University for the bulk of the time that Ms. Richards was being discriminated against, and who, by virtue of her office, was also a member of the Duke University Board of Trustees, never denied knowing that Ms. Richards had been subject to illegal electronic surveillance, or that she had received information from the illegal electronic surveillance about Ms. Richards. *See* App. at 140-42. Respondent Keohane also never even denied knowing that persons at Duke Law had contacted persons at Georgetown Law to continue to discriminate against Ms. Richards after she had left Duke Law. *Id.*

Thus, in light of the record in this case, it would appear that the D.C. Circuit felt the claims

alleged bizarre conspiracy theories because, notwithstanding the fact that the there were defendants who did not deny committing the acts, the D.C. Circuit simply felt the claims were improbable. However, the D.C. Circuit could not dismiss the claims for lack of subject matter jurisdiction because they felt the claims were unlikely. *See Goosby*, 409 U.S. at 518 (stating that "claims of doubtful or questionable merit do not render then insubstantial"); *Denton*, 504 U.S. at 33 (stating that a court may not dismiss complaint "simply because it finds the plaintiff's allegations unlikely"). Indeed, as the Court observed in *Denton*, "[s]ome improbable allegations might properly be disposed of on summary judgment, but to dismiss them as frivolous without any factual development is to disregard the age-old insight that many allegations might be 'strange, but true; for truth is always strange, Stranger than fiction'." *Id.* at 33.

Nevertheless, the D.C. Circuit's decision in this case did not just conflict with decisions from this Court, but also decisions from the First Circuit, the Second Circuit, the Fifth Circuit and the Eleventh Circuit, where these Courts of Appeal have exercised subject matter jurisdiction over discrimination and accompanying grade related disputes, or broad based conspiracies involving both private and governmental entities. In *Rice v. President and Fellows of Harvard College*, 663 F.2d 336 (1st Cir. 1981), for example, the First Circuit assumed subject matter jurisdiction over a case where a former female student had sued the President and Fellows of Harvard College because she claimed that faculty members at Harvard Law School were discriminating against female students in the awarding of

grades. *Id.* at 337. According to the plaintiff in *Rice*, faculty members at Harvard Law had engaged in "across-the-board" discrimination based on sex, where they conspired amongst themselves to award lower grades to female students. *Id.* 338.

Likewise, in *Alexander v. Yale University*, 631 F.2d 178 (2d Cir. 1980), the Second Circuit assumed subject matter jurisdiction in a discrimination case where five female students had sued Yale University because of injuries that resulted from Yale "actively condoning continued sexual harassment of female students by male faculty members and administrators." *Id.* at 181. At least three of the students complained that they had been personally sexually harassed, with one alleging that she had been subjected to repeated sexual advances by a male faculty member, and another alleging that a male faculty member had offered to give her an "A" in exchange for her compliance with his sexual demands, and that when she refused, he gave her a grade of "C", which was not a fair evaluation of her work. *Id.* at 181-82.

In *Suthoff v. Yazoo County Industrial Development Corporation*, 637 F.2d 337 (5th Cir. 1981), *cert. denied* 454 U.S. 1157 (1982), the plaintiffs alleged that five public agencies in the state of Mississippi, and five individuals, had conspired to force them to sell their property for one-fourth of its value. *Id.* at 339. As part of the conspiracy, "the City of Yazoo. . . was induced to institute proceedings to expropriate a portion of the plaintiffs' property for sewerage purposes for the sole purpose of coercing the plaintiffs (for fear of destruction of the value of their property) into selling their property at a low price to the County." *Id.* Although the dis-

trict court had dismissed the complaint on its allegations for lack of subject matter jurisdiction, the Fifth Circuit reversed that determination after finding that the allegations were neither immaterial nor frivolous. *Id.* at 339-40. In so doing, the Fifth Circuit noted that "[t]he applicable test for determining jurisdiction on the face of the pleading is not whether the plaintiffs could actually recover, but whether the federal claim alleged is so patently without merit as to justify the district court's dismissal for want of jurisdiction." *Id.* at 340 (citing *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, 438 U.S. 59, 70 (1978).

Similarly, in *McWilliams v. Escambia Charter School*, 144 Fed. Appx. 840 (11th Cir. 2005), the plaintiff sued a school, which was his former employer, the school district which had sponsored the school, AmStaff Human Resources, which was his co-employer, Liberty Mutual Insurance Company, which was the school's insurance carrier, and Charles Crist, Jr., Florida's Attorney General. *Id.* at 841. The plaintiff had alleged negligence and conspiracy based claims against the defendants in connection with actions that they took which resulted in the loss of his worker's compensation benefits, the denial of his unemployment claim, and the dismissal of a lawsuit that he had filed in a Florida state court. *Id.* 841-42.

Although the district court had dismissed the action for lack of subject matter jurisdiction, the Eleventh Circuit reversed that determination, as to the conspiracy based claims, and as to all defendants, except the Attorney General, who was dismissed pursuant to the Eleventh Amendment. In reversing the district court, the Eleventh Circuit

noted that because the plaintiff alleged a constitutional deprivation by a school district, which acted under state law, and private entities that acted in concert with that school district, the plaintiff's claims had a plausible foundation, and as his claims were not barred by any decision from this Court, his claims were not so "patently without merit" as to deprive the district court of jurisdiction. *Id.* at 843. The Eleventh Circuit emphasized that they were only deciding whether the plaintiff's claims were so frivolous as to deprive the district court of subject matter jurisdiction, and they held that the claims were not so frivolous as to do so. *Id.* at 844.

It should nevertheless be noted that what is also troubling about the D.C. Circuit's decision in this case is that it appears to have given no consideration to the types of claims that have arisen in the district court in the District of Columbia, which could be adversely affected by its decision in the future. For example, the district court in the District of Columbia has assumed subject matter jurisdiction over a case where a student, who had tested positive for the Human Immunodeficiency Virus ("HIV"), sued a university he had previously attended, because persons at that university had publicly leaked information about the student's HIV status, which resulted in the student being harassed at the school, and then after the student transferred to another school, someone at the former university contacted the new school to further disseminate information about the student's HIV status. *See Doe v. Southeastern Univ.*, 732 F. Supp. 7, 7-8 (D.D.C. 1990).

Similarly, the district court in the District of Columbia has also assumed subject matter jurisdic-

tion over a case involving the widespread use of illegal electronic surveillance in *Berlin Democratic Club v. Rumsfeld*, 410 F. Supp. 144 (D.D.C. 1976). In *Berlin Democratic Club*, the plaintiffs, which included the Berlin Democratic Club, which had, among other activities, supported the impeachment proceedings against President Nixon in 1973, brought an action against a number of Department of Defense Army officials and uniformed personnel.

The plaintiffs alleged, among other things, that they had been subjected to numerous acts of warrantless electronic surveillance, and that the defendants had maintained "dissidence identification" files and "blacklists" about them which had been disseminated to military and civilian agencies and private citizens. *Id.* at 147. The plaintiffs alleged that the defendants had wiretapped their telephones, disrupted their daily activities, and that the derogatory information that had been disseminated lead to the termination or restriction of their employment opportunities or forced them to severely restrict their activities for fear of having additional information disseminated. *Id.* at 148. Although the Complaint was filed in 1974, the plaintiffs alleged that the illegal surveillance had extended as far back as 1971, and had continued, in all instances, for at least a period of months. *Id.* at 148, 161.

Ultimately, in *Berlin Democratic Club*, the court held that the action was justiciable because "public dissemination of . . . information in a false and defamatory manner and with no lawful purpose, disruption of legitimate activities, termination of employment, illegal electronic surveillance, and other forms of harassment" were properly subject to challenge as being beyond legitimate surveillance

activities. *Id.* at 151; *see also Philadelphia Yearly Meeting of the Religious Society of Friends v. Tate*, 519 F.2d 1335, 1338 (3d Cir. 1975) ("It is not apparent how making information concerning the lawful activities of plaintiffs available to non-police groups or individuals could be considered within the proper ambit of law enforcement activity. . .").

In sum, the D.C. Circuit's decision conflict with decisions of this Court and four other Courts of Appeal, and it should not be allowed to stand. Indeed, if it were allowed to stand, it would surely have a chilling effect on civil rights plaintiffs, because although the United States Congress has enacted laws to allow individuals to seek redress in a court of law when they have been discriminated against, and had their civil rights violated, this decision would essentially help to nullify and eviscerate the protection afforded by those laws through the use of Rule 12(b)(1).

II. THE D.C. CIRCUIT HAS DECIDED AN IMPORTANT PROCEDURAL QUESTION IN A WAY THAT CONFLICTS WITH DECISIONS OF THIS COURT AND FOUR OTHER COURTS OF APPEALS

Rule 8(a)(2) of the Federal Rules of Civil Procedure provides that a complaint need only contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Over the years this Court has addressed this provision several times, and it has repeatedly said that this rule does "not require a claimant to set out in detail the facts upon which" a claim is

based. *Conley v. Gibson*, 355 U.S. 41, 47 (1957); *Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit*, 507 U.S. 163, 168 (1993); *Swierkiewicz v. Sorema, N.A.*, 534 U.S. 506, 512-15 (2002); *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007). Rather, all that is required "is 'a short and plain statement of the claim' that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." *Conley*, 355 U.S. at 47; *Leatherman*, 507 U.S. at 168; *Swierkiewicz*, 534 U.S. at 512; *Erickson*, 127 S. Ct. at 2200. This Court has explained that "[s]uch simplified 'notice pleading' is made possible by the liberal opportunity for discovery and the other pretrial procedures established by the Rules to disclose more precisely the basis of both claim and defense and to define more narrowly the disputed facts and issues." *Conley*, 355 U.S. at 47-48; *Leatherman*, 507 U.S. at 168-69; *Swierkiewicz*, 534 U.S. at 512.

This Court has also observed that "Rule 8(a)'s simplified pleading standard applies to all civil actions, with limited exceptions." *Swierkiewicz*, 534 U.S. at 512. Thus, this Court has recognized that Rule 9(b) of the Federal Rules of Civil Procedure requires pleading with greater particularity in two specific instances: 1) averments of fraud, and 2) averments of mistake. *Leatherman*, 507 U.S. at 168; *Swierkiewicz*, 534 U.S. at 513. However, this Court has declined to extend a more particularized pleading requirement to other contexts. *See Leatherman*, 507 U.S. at 168 (noting that Rule 9(b) does not require more particularized pleading for claims against municipalities under Section 1983, and therefore Rule 8(a)'s simplified pleading would apply); *Swierkiewicz*, 534 U.S. at 513 (noting that

Rule 9(b) does note require a more particularized pleading for claims involving employment discrimination, and therefore such claims need only satisfy Rule 8(a)'s simple pleading requirements). As this Court observed in *Leatherman*, "perhaps if Rules 8 and 9 were rewritten today, claims against municipalities under § 1983 might be subjected to the added specificity requirement of Rule 9(b)," "[b]ut that is a result that must be obtained by amending the Federal Rules, not by judicial interpretation." *Leatherman*, 507 U.S. at 168.

Nevertheless, despite the foregoing, the district court dismissed Ms. Richards' claims against the Government Respondents, for violations of her First, Fourth and Fifth amendment rights, because she offered nothing "in the way of specific facts or allegations" and the complaint's "vague and conclusory statements [were] exactly the type of unsupported allegations that. . . were properly dismissed pursuant to Rule 12(b)(6)." App. at 60-61. Similarly, the district court dismissed Ms. Richards' claim for violation of the federal criminal wiretapping statute, codified at 18 U.S.C. §§ 2510-2522, because she had "not specifically alleged any of the five necessary elements [to prove a wiretapping offense] and her unsupported connections and conclusions are insufficient to serve as a basis for this claim." App. at 62. Further, the district court dismissed Ms. Richards' claims for violations of 42 U.S.C. § 1981, at least in part, because they were "unsubstantiated". App. at 63. Still, the district court judge dismissed Ms. Richards' claims for violations of 42 U.S.C. § 1985 because Ms. Richards had "not alleged facts, as opposed to conclusory and unsupported allegations, of a conspiracy." App. at 64.

Finally, the district court dismissed Ms. Richards' claims for intentional infliction of emotional distress because, at least in part, Ms. Richards had "failed to show either of the required elements of extreme and outrageous conduct or severe emotional distress." App. at 64.

On appeal, even though Ms. Richards argued that pursuant to Rule 8(a) she was only required to give the respondents notice of her claim and the grounds upon which they rested, the D.C. Circuit nevertheless affirmed the district court's decision stating that "appellant [had] failed to show any error in the district court's dismissal of her claims under the legal standard for dismissal pursuant to Rule 12(b)(6)." App. at 33. However, this decision by the D.C. Circuit was in direct contravention of precedent from this Court. Pursuant to Rule 8(a), Ms. Richards did not have to state specific facts of her claims. *See Erickson*, 127 S. Ct. at 2200 (stating that under to Rule 8(a)(2), "[s]pecific facts are not necessary"). Further, Ms. Richards was not required to produce evidence to support her claims to survive a Rule 12(b)(6) motion to dismiss. *See Conley*, 355 U.S. at 47 (stating that a claimant need only give a short and plain statement that provides notice of the claims and the grounds upon which they rest); *Leatherman*, 507 U.S. at 168 (same); *Swierkiewicz*, 534 U.S. at 512 (same); *Erickson*, 127 S. Ct. at 2200 (same). Still, Ms. Richards did not have to state specific facts to plead a *prima facie* case of any of her claims. *See Swierkiewicz*, 534 U.S. at 515 (noting that having to show a *prima facie* case is an evidentiary standard not a pleading requirement).

Rather, Ms. Richards was only required to

give the respondents notice of her claims and the grounds upon which they rested, and the respondents in this case had ample notice of both. Ms. Richards alleged that she is a black woman who is a native of the U.S. Virgin Islands, and that the discriminatory acts that Ms. Richards was subjected to was because of her race, gender and ethnicity. First Am. Compl. at ¶¶ 25, 37, 293. Ms. Richards alleged that she was discriminated against at Duke Law, and that after she transferred to Georgetown Law, persons at Duke Law contacted persons at Georgetown Law to adversely affect her overall educational experience at Georgetown Law, including lowering and adversely affecting Ms. Richards' grades in a number of courses, as well as adversely affecting Ms. Richards' classroom experience, journal experience and job prospects. *Id.* at ¶¶ 104-48, 173, 175-79, 186-91.

Further, Ms. Richards alleged that the Duke Respondents also contacted the Government Respondents to place Ms. Richards under continuous illegal electronic surveillance to obtain information to discriminate against Ms. Richards. *Id.* at ¶¶ 38-44, 49. The Government Respondents provided the material and resources, which included listening devices, to keep Ms. Richards under illegal electronic surveillance. *Id.* at ¶¶ 54, 69. As a result of the surveillance, Ms. Richards had medical information about her disseminated in June of 1998, and while she was a second year law student at Georgetown Law, and in December of 2002 after she had returned to live in the U.S. Virgin Islands. *Id.* at ¶¶ 60, 62, 165. The surveillance also allowed the Microsoft Respondents to intercept statements Ms. Richards made about wireless technology in Novem-

ber of 1999, ideas that she had wrote regarding the use of e-mails to generate revenue while in North Carolina in September of 2000, and ideas she wrote about changing the name of Web TV to MSN TV while she was in the Virgin Islands in February or March of 2001. *Id.* at ¶¶ 207-08, 214, 268-70, 273-76. The presence of the continuous surveillance has even made Ms. Richards cautious of making statements on certain topics in her own home. *Id.* at ¶¶ 75-77. In fact, Ms. Richards has sustained injuries, including a loss of enjoyment of life, loss of reputation, and even emotional injuries as a result of the defendants' conduct. *Id.* at ¶ 293.

Nevertheless, just as the D.C. Circuit's decision conflicts with decisions from this Court, it is also conflicts with decisions from the Second, Third, Seventh and Ninth Circuits. *See Phelps v. Kapnolas*, 308 F.3d 180, 186-88 (2d Cir. 2002) (observing that complaint need only give notice of the claim and the grounds upon which its rests); *Alston v. Parker*, 363 F.3d 229, 233 (3d Cir. 2004) (noting that "a fact-pleading requirement for civil rights complaints has been rejected by the Supreme Court in no uncertain terms"); *Higgs v. Carver*, 286 F.3d 437, 439 (7th Cir. 2002) (stating that "[t]he courts keep reminding plaintiffs that they don't have to file long complaints, don't have to plead facts, don't have to plead legal theories."); *Galbraith v. County of Santa Clara*, 307 F.3d 1119, 1124-256 (9th Cir. 2002) (observing that even though *Swierkiewicz* involved an employment discrimination case, in *Swierkiewicz*, the Supreme Court noted that "complaints in these cases, *as in most others*, must satisfy only the simple requirements of Rule 8 (a)") (quoting *Swierkiewicz*, 534 U.S. at 513).

Accordingly, because the D.C. Circuit's decision conflicts with decisions of this Court, and four other Courts of Appeal, this Court should grant this petition and the D.C. Circuit's decision should be reversed.

CONCLUSION

For the reasons stated herein, the petition for the writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

United States Court of Appeals
for the District of Columbia Circuit

Suzette Richards,

v.

Duke University, et al.,

No. 07-5119

December 7, 2007

BEFORE: Randolph, Rogers, and Tatel,
Circuit Judges

ORDER

Upon consideration of appellant's petition for rehearing, it is

ORDERED that the petition be denied.

Per curiam

United States Court of Appeals
for the District of Columbia Circuit

Suzette Richards,

v.

Duke University, et al.,

No. 07-5119

August 27, 2007

BEFORE: Randolph, Rogers, and Tatel, Circuit Judges

ORDER

Upon consideration of the motion for summary affirmance and the response thereto, it is

ORDERED that the motion be granted and the judgment affirmed, Richards v. Duke Univ., 480 F. Supp. 2d 222 (D.D.C. 2007). The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The district court properly determined it lacked personal jurisdiction over the Duke University defendants, as well as William Gates, Melinda Gates, and Steven Ballmer, see D.C. Code § 13-423(a); Second Amendment Found. v. United States

Conference of Mayors, 274 F.3d 521, 523-24 (D.C. Cir. 2001), and did not abuse its discretion in denying jurisdictional discovery, see Caribbean Broad. Sys., Ltd. v. Cable & Wireless, PLC, 148 F.3d 1080, 1089-90 (D.C. Cir. 1998). The district court also properly determined that the claims, alleging bizarre conspiracy theories, are the sort of fanciful and fictitious claims that would warrant dismissal for lack of subject matter jurisdiction. See Best v. Kelly, 39 F.3d 328, 330-31 (D.C. Cir. 1994). Nevertheless, the district court did not rest its ruling on Federal Rule of Civil Procedure 12(b)(1). Instead, the claims were correctly dismissed under either the relevant statute of limitations or for failure to state a claim pursuant to Rule 12(b)6) or both. Appellant does not contest the dismissal of her claims under the Eighth and Thirteenth Amendments and under Bivens v. Six Unknown Narcotics Agents, 403 U.S. 388 (1971), or the claims for interference with prospective advantage and theft for intellectual property. With respect to the "continuing tort doctrine" advanced by appellant based on Page v. United States, 729 F.2d 818, 821 (D.C. Cir. 1984), the district court properly rejected this theory. See DeBerry v. First Gov't Mortg. and Investors Corp., 170 F.3d 1105, 1111 n.9 (D.C. Cir. 1999) ("the 'continuing tort' argument appears to be unavailable under District of Columbia law"). Nor does appellant offer any argument to support her alternate theory under Jung v. Mundy, 372 F.3d 429, 433 (D.C. Cir. 2004). Finally, appellant has failed to show any error in the district court's assessment of her claims under the legal standard for dismissal pursuant to Rule 12(b)(6). See Kowal v. MCI Commc'ns Corp., 16 F.3d 1271, 1276 (D.C. Cir.

1994).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per curiam.

United States District Court
for the District of Columbia

Suzette Richards,

v.

Duke University, et al.,

Civil Action No. 06-01179 (RCL)

March 30, 2007

LAMBERTH, Judge.

MEMORANDUM OPINION

This matter comes before the Court on the Duke University defendants' (Duke University, Duke University Law School, Duke University Board of Trustees and Nannerl Keohane) Motions [17, 18, 32] to Dismiss, the Georgetown University defendants' (Georgetown University and Georgetown University Law Center) Motions [11, 50] to Dismiss, the Government defendants' (Alberto Gonzales, Federal Bureau of Investigation, Department of Justice and John and Jane Does 1-10) Motion [DVI 200] to Dismiss[1], the Microsoft defendants'

1. All motions that were filed with the United States District Court for the District of the Virgin Islands prior to transfer to this Court will be noted with "DVI" before the docket number that the document was originally given by the District Court in the Virgin Islands.

(Microsoft Corporation, William H. Gates, III, Steven A. Ballmer, Melinda F. Gates and Microsoft employees A-J) Motions [DVI 219, 43] to Dismiss, the Plaintiff's Motion [23] to Strike Exhibits Filed by the Georgetown University defendants, and the Plaintiff's Motion [48] for Leave to Take Jurisdictional Discovery.

Upon consideration of the motions, the oppositions thereto, the reply briefs, the applicable law, and the entire record herein, the Court concludes that the defendants' motions to dismiss will be GRANTED, the plaintiff's motion [23] to strike all exhibits filed by the Georgetown University defendants will be DENIED and the plaintiff's motion [48] for leave to take jurisdictional discovery will be DENIED.

BACKGROUND

I. Facts

Plaintiff Suzette Richards submitted a complaint on May 8, 2003 and a subsequent amended complaint on June 5, 2003 asking the United States District Court for the District of the United States Virgin Islands, St. Croix Division, for declaratory and injunctive relief and punitive damages stemming from an alleged conspiracy among all of the named defendants to violate plaintiff's rights. Plaintiff alleges fraud, discrimination based on race and national origin in violation of 42 U.S.C. § 2000d-200d-7, discrimination based on sex and sexual harassment in violation of 20 U.S.C. § 1681-1688, constitutional violations of plaintiff's First,

Fourth, Fifth, Eighth and Thirteenth Amendment rights, violations of the Criminal Wiretapping Statute, 18 U.S.C. § 2510-2522, violations of 42 U.S.C. § 1981, § 1985, § 1986, intentional infliction of emotional distress, civil conspiracy, invasion of privacy, interference with prospective advantage and theft of intellectual property. This case was transferred to this court from the United States District Court for the District of the Virgin Islands on June 28, 2006.

Though plaintiff alleges a vast conspiracy involving all of the named defendants extending over more than eight years, plaintiff's allegations are conclusory and too lengthy to recount in detail here. In general, plaintiff alleges the following facts:

Plaintiff enrolled at Duke University Law School in the fall of 1997. While at Duke, Dean Sockwell, a dean of the law school, lied to her about how to take her law school exams which resulted in plaintiff receiving lower grades than other students; no African-American students had been placed onto the law school's law review or journals until the year that plaintiff transferred from Duke; and during a law school class, a professor falsely indicated that plaintiff was not a citizen of the United States. Plaintiff further alleges that Duke then engaged in illegal surveillance of her because officials at Duke were afraid that plaintiff would expose their discriminatory practices. This surveillance extended to plaintiff's home and car, followed her everywhere she went, and even resulted in exposure of plaintiff's private medical information.

Plaintiff then transferred to Georgetown University Law Center and enrolled there in the fall of 1998. Plaintiff alleges that Duke and Georgetown colluded and conspired to maintain the surveillance

of plaintiff. Plaintiff was called on to speak in her Corporations class six or seven times during the semester while other students were not called on at all; Georgetown professors entered plaintiff's apartment and moved her books to determine whether she was completing her assignments; an article that plaintiff wrote for The Georgetown Journal of Gender and the Law was altered to include discussion of homosexual civil rights issues to make it appear that plaintiff was in fact a homosexual; and plaintiff's Civil Rights professor added a day on homosexual civil rights into his syllabus for the first time while plaintiff was a student in his class. Plaintiff graduated from Georgetown University Law Center in May of 2000.

Microsoft allegedly joined the conspiracy to continue the surveillance of plaintiff and gather information about her because William H. Gates, III, became physically attracted to her in September of 1999 and the Microsoft defendants feared that Gates would leave his wife, Melinda Gates, for plaintiff. The conspiracy and surveillance of plaintiff enabled Microsoft to steal plaintiff's ideas, that she had only written down or spoken in the privacy of her own home, about generating revenue through wireless email, the affect of wireless technology on markets, and changing the name of Web TV to MSN TV. Microsoft also included images and phrases on its website which described or were directed at plaintiff, an African-American woman, to harass her, including a picture of a pregnant African-American woman, implying that plaintiff was pregnant with William Gates' child. Finally, the United States government was also conspiring with the other defendants and facilitating the surveillance of

plaintiff.

ANALYSIS

I. Lack of Personal Jurisdiction

A. Legal Standard under Rule 12(b)(2)

According to Rule 12(b)(2) of the Federal Rules of Civil Procedure, the plaintiff has the burden of proving that the court has personal jurisdiction over the defendant by showing that the defendant purposefully availed himself of the benefits of the forum state by establishing minimum contacts and that the exercise of jurisdiction would comport with notions of fair play and substantial justice. See Wiggins v. Equifax, 853 F. Supp. 500, 502 (D.D.C. 1994). "Bare allegations and conclusory statements are insufficient" to establish personal jurisdiction over a defendant. Capital Bank Int'l, Ltd. v. Citigroup, Inc., 276 F. Supp. 2d 72, 74 (D.D.C. 2003). The plaintiff must instead "allege specific facts connecting each defendant with the forum state." Schwartz v. CDI Japan, 938 F. Supp. 1, 7 (D.D.C. 1996). A court does not have jurisdiction over the individual officers or employees of a corporation just because the court has jurisdiction over the corporation. See Quinto v. Legal Times, 506 F. Supp. 554, 558 (D.D.C. 1981).

In the District of Columbia, personal jurisdiction may be asserted over a defendant according to D.C. Code § 13-423(a)(4) which states, in relevant part: "A District of Columbia court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a claim for relief arising

from the person's . . . (4) causing tortious injury in the District of Columbia by an act or omission outside the District of Columbia if he regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed, or services rendered, in the District of Columbia."

Besides D.C. Code § 13-423(a), plaintiff also relies on the conspiracy jurisdiction doctrine to argue that this Court has personal jurisdiction over the Microsoft defendants and the Duke defendants. Under the conspiracy jurisdiction doctrine, a defendant's contact with the forum can arise from the acts of co-conspirators within that forum. See Jin v. Ministry of State Sec. 335 F. Supp. 2d 72, 78 (D.D.C. 2004). However, to assert jurisdiction under the conspiracy jurisdiction doctrine, the plaintiff must make a prima facie showing of "(1) a conspiracy (2) in which the defendant participated and (3) a co-conspirator's overt act within the forum, subject to the long-arm statute and in furtherance of the conspiracy." Id. Further, to be entitled to jurisdictional discovery based on this doctrine, the plaintiff must specifically allege: "(1) the existence of a conspiracy, (2) the non-resident's participation, and (3) an injury-causing act of the conspiracy within the forum's boundaries." Edmond v. United States Postal Service General Counsel, 949 F. 2d 415, 425, 292 U.S. App. D.C. 240, 250 (D.C. Cir. 1991).

B. Duke Defendants

Plaintiff has not made a prima facie showing that this court can assert personal jurisdiction over any of the Duke Defendants (Duke University,

Duke University Law School, Duke University Board of Trustess and University President Nannerl Keohane). Duke University is a private educational institution in the State of North Carolina and does not conduct business or own property within the District of Columbia. (Duke Defs.' Mot. to Dismiss [17], Ex. 1) Nannerl Keohane is a resident of New Jersey, has limited contact with the District of Columbia in the form of attendance at an annual conference held in the District of Columbia, and owns no property or bank accounts in the District of Columbia. (Duke Defs.' Mot. to Dismiss [17], Ex. 2) This court cannot assert general jurisdiction over the Duke defendants because none of the Duke defendants are residents of the District of Columbia and plaintiff does not allege that any of the Duke defendants are domiciled or have a principal place of business in the District of Columbia.

Duke University's recruiting activities to meet with students in the District of Columbia, the fact that students from the District of Columbia attend Duke University and Duke University Law School and a small number of adjunct faculty at Duke University live in the District of Columbia do not separately, or in the aggregate, constitute regular business, persistent conduct or receipt of substantial revenue from the District of Columbia as required under the D.C. Code § 13-423(a)(4) to assert personal jurisdiction. Generally, colleges and universities are not subject to personal jurisdiction in all states from which their students hail, as this would unfairly expose them to litigation in many distant forums. See Scherer v. Curators of the Univ. of Missouri, 152 F. Supp. 2d 1278, 1284-86 (D. Kan. 2001). Duke's government relations and lobbying

connections to the District of Columbia also do not form a basis for asserting personal jurisdiction because of a long-recognized "government contacts" exception to the "transacting

business" provision of a long-arm statute to allow for petitioning the government and the redress of grievances. Naartex Consulting Corp. v. Watt, 722 F. 2d. 779, 787 (D.C. Cir. 1983).

C. Microsoft Defendants in Their Personal Capacity

This court also cannot properly assert personal jurisdiction over the individual Microsoft Defendants William H. Gates, III, Melinda F. Gates and Steven A. Ballmer in their personal or official capacities in this case. Mr. and Mrs. Gates and Mr. Ballmer cannot be sued in this court in their personal capacities because they do not have sufficient minimum contacts in their personal capacity, outside of their work for Microsoft Corporation, to establish jurisdiction. They are all domiciled in the State of Washington and have only made trips to the District of Columbia in their official capacities representing Microsoft Corporation or the Bill & Melinda Gates Foundation. (Microsoft Defs.' Mot. to Dismiss [43], 1-3). Though Mr. Gates was a resident of the District of Columbia for three months in 1972, this Court finds this short period of residency, over three decades ago, is insufficient to support a finding of minimum contacts in this case and asserting jurisdiction over Mr. Gates would violate Due Process. (Microsoft Defs.' Mot. to Dismiss [43], Ex. A).

Mr. and Mrs. Gates and Mr. Ballmer cannot

be sued in this Court based on their activities within the scope of their employment with the Microsoft Corporation or the Bill & Melinda Gates Foundation because it is well-settled law that a court does not have jurisdiction over individual officers and employees of a corporation solely because the court has jurisdiction over the corporation. See Wiggins v. Equifax, 853 F. Supp. 500, 503 (D.D.C. 1994). Since Mr. and Mrs. Gates and Mr. Ballmer do not have sufficient personal contacts with the forum as stated above, but only official contacts within their capacity with the Microsoft Corporation or the Bill & Melinda Gates Foundation, this court cannot properly assert jurisdiction over them in this case.

D. Conspiracy Jurisdiction Doctrine

In addition, plaintiff's reliance on the conspiracy doctrine to assert personal jurisdiction over the Microsoft and Duke defendants is misplaced. Plaintiff has not supported her theory of a conspiracy and illegal surveillance by the defendants with any sort of factual basis. Plaintiff has not alleged enough facts to support a conspiracy at all, and none whatsoever to support a coconspirator's overt act within the District of Columbia to establish jurisdiction based on the conspiracy doctrine. Plaintiff's failure to allege a conspiracy is tied to this Court's lack of subject matter jurisdiction pursuant to Rule 12(b)(1) and plaintiff's failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) which will be discussed in detail below. At this point, it is sufficient for the Court to point out that plaintiff cannot, under the facts she has asserted,

use the conspiracy jurisdiction doctrine to reach defendants that are otherwise outside the jurisdiction of this Court.

E. Plaintiff's Motion For Leave to Take Jurisdictional Discovery

Finally, in plaintiff's motion [48] for jurisdictional discovery with respect to the Duke defendants and the Microsoft defendants, plaintiff has not alleged the underlying conspiracy with enough specificity to warrant jurisdictional discovery based on the conspiracy doctrine. Plaintiff's allegations are conclusory and have little connection to one another such as her statement that law professors are "very much connected to each other, which would only have made it that much easier for persons at Duke Law to contact and conspire with persons at Georgetown Law to discriminate against Plaintiff." (Pl.'s Opp'n [35], 12). This Court will not allow plaintiff to undertake the sort of fishing expedition that the rules of jurisdictional discovery are designed to prevent. Therefore, this court will deny plaintiff's motion [48] for leave to take jurisdictional discovery regarding the Duke defendants and the Microsoft defendants.

II. Dismissal pursuant to Rule 12(b)(1) and Rule 12(b)(6)

Though this court does not have jurisdiction over the Microsoft defendants William H. Gates, III, Melinda Gates, and Steven Ballmer, or any of the Duke defendants pursuant to Rule 12(b)(2), all of the counts against the Microsoft defendants and the

Duke defendants, as well as the Georgetown defendants and the Government defendants can be properly dismissed under Rule 12(b)(1), Rule 12(b)(6) or alternatively, the relevant statute of limitations.

A. Legal Standard under Rule 12(b)(1)

Pursuant to Rule 12(b)(1), the plaintiff bears the burden of establishing that the court has jurisdiction. See Hilska v. Jones, 297 F. Supp. 2d 82, 86 (D.D.C. 2003); McNutt v. General Motors Acceptance Corp. Of Indiana, 288 U.S. 178, 182 (1936). "Because subject matter jurisdiction focuses on the Court's power to hear a claim, however, the Court must give the plaintiff's factual assertions closer scrutiny when reviewing a motion to dismiss for lack of subject matter jurisdiction than reviewing a motion to dismiss for failure to state a claim upon which relief can be granted under Rule 12(b)(6)." Bernard v. U.S. Dep't. of Def., 362 F. Supp. 2d 272, 277 (D.D.C. 2003). Unlike Rule 12(b)(6) motions, when a court is reviewing a complaint under factual attack for lack of jurisdiction, "no presumption of truthfulness applies to the factual allegations." Ohio Nat'l Life Insurance Co. v. United States, 922 F.2d 320, 325 (6th Cir. 1990). To evaluate whether a court has subject matter jurisdiction over a claim, the court may look to materials outside the pleadings. See Herbert v. Nat'l Acad. of Sciences, 974 F. 2d 192, 197 (D.C. Cir. 1992). Federal courts have found that claims that are "wholly insubstantial or frivolous" lack subject matter jurisdiction to be heard. Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 89 (1998). Under Rule 12(b)(1), a claim is "patently insubstantial" when it presents

"no federal question suitable for decision." Best v. Kelly, 39 F. 3d 328, 330 (D.C. Cir. 1991). Claims that are "essentially fictious" or otherwise "fanciful claims" such as those that allege "bizarre conspiracy theories, any fantastic government manipulations of their will or mind, [or] any sort of supernatural intervention" warrant a dismissal under Rule 12(b)(1) for lack of subject matter jurisdiction. Id. at 330-31. In other words, a claim that is "so attenuated and insubstantial as to be absolutely devoid of merit" should be dismissed. Newburyport Water Co. v. Newburyport, 193 U.S. 561, 579 (1904).

B. Analysis under Rule 12(b)(1)

Relevant precedent in this Court and the District of Maryland is instructive in resolving the question of subject matter jurisdiction in this case. In Carone-Ferdinand v. Central Intelligence Agency, plaintiffs, the family of Mr. Albert Carone-Ferdinand representing his estate, requested $38 million from the United States government alleging that the government and the CIA ordered Carone-Ferdinand, who they claim was an operative with the CIA, to smuggle cocaine into the United States, assassinate women and children in Mexico, and even assassinate President John F. Kennedy. See 131 F. Supp. 2d 232, 232-34 (D.D.C. 2001). The plaintiffs further alleged that because Carone-Ferdinand wanted to end his cooperation with the CIA, the CIA had him killed. See id. at 234. The court found that these allegations were essentially fictitious and exactly the type of "bizarre conspiracy theory" that warrants dismissal under Rule 12(b)(1). Id. at 235. The court found that plaintiff's

evidence was patently false and lacked authenticity because it consisted of affidavits by former or deceased CIA officials who admitted criminal activity in documents with "frequent misspellings, absence of a grammar, [and] bizarre free-association," and further attempts to verify the documents failed. Id.

In O'Connor v. United States, O'Connor included a litany of bizarre allegations in his claim. O'Connor alleged that he was subject to surveillance by the Drug Enforcement Agency ("DEA") in his home, his car, his office and at his parent's home during which the DEA would tamper with his belongings and even hired civilians to speak in code words to him to further this harassment. See 159 F.R.D. 22, 24 (D. Md. 1994). For example, O'Connor claimed that the DEA used signs and messages to harass him such as a license plate with the letters "TNT" which meant that he was "playing with dynamite." Id.

In the matter before this Court, plaintiff's claims are just as fantastic and incredulous as the claims alleged by Carone-Ferdinand and O'Connor. Plaintiff's case is strikingly similar to O'Connor because O'Connor was an attorney representing himself pro se, whose claim was dismissed despite the lucidity of his prose. See id. at 26. Plaintiff has demonstrated that she has an understanding of the law and can clearly express herself but the clarity with which she describes her bizarre conspiracy theory does not make it any less bizarre. Like O'Connor, plaintiff alleges roving surveillance that followed her everywhere she went, even into a medical exam room. (Pl.'s Opp'n [44], 19). In O'Connor, the plaintiff alleged that he was accosted by people on the street who were hired by the DEA. See 159

F.R.D. at 24. In the instant case, plaintiff has similarly alleged that she was "public accosted by a man in a Kmart Store . . . in connection with a headline [referring to plaintiff] that appeared on the MSN website." (Pl.'s Am. Compl. [DVI 17], 233). Plaintiff's attempts to distinguish her case from O'Connor and Carone-Ferdinand are misguided because though the specific facts of the claims are different, plaintiff's claims are similarly fantastic to the point of being patently insubstantial and warranting a dismissal under Rule 12(b)(1). Plaintiff has only offered a "laundry list of wrongful acts" and conclusory allegations to support her theory of a conspiracy which is insufficient to allow the case to go forward. Shoemaker v. U.S., 1997 U.S. Dist. LEXIS 2322 at *16 (D.N.Y 1997). Plaintiff's claims are fantastic because she finds individualized meaning in general and benign actions by the defendants that are in no way related to her. Plaintiff alleges that a photograph of Duke President Nannerl Keohane with "a very dark skinned child" on the cover of the Duke Alumni Magazine was part of the large "racist conspiracy" that she describes. (Pl.'s Am. Compl. [DVI 17], 228). Plaintiff even alleges that Microsoft has aired commercials praising its workers to "cater to potential jurors who may serve in this matter" because "the Microsoft defendants are aware that Plaintiff will be filing the instant action against them for the role they have played in this racist conspiracy." (Pl.'s Am. Compl. [DVI 17], 282-284).

Further, plaintiff's reliance on Berlin Democratic Club v. Rumsfeld to survive a Rule 12(b)(1) motion is misplaced. There, the court found allegations of government conspiracies and wiretapping to be justiciable because the surveillance and dissemi-

nation of private information, as specifically plead in that case, were beyond the bounds of legitimate intelligence activity. See Berlin Democratic Club v. Rumsfeld, 410 F. Supp. 144, 149-150 (D.D.C. 1976). Just because claims of government conspiracy and illegal surveillance were justiciable in Berlin Democratic Club has little bearing on the justiciability of the plaintiff's claims because it depends on the facts and the specificity of the allegations. Plaintiff's proffered facts on which she bases her allegations of a conspiracy are speculative and unspecific. For example, the overt acts relating to the conspiracy between Duke and Georgetown that Plaintiff offers are a professor calling on her on the first day of her Civil Rights class once she transferred to Georgetown and her article written for The Georgetown Journal of Gender and the Law, being changed without her knowledge or consent. (Pl.'s Opp'n [35], 13-14). Plaintiff's attempts to string together such discrete, and in some instances benign, acts fail to form a conspiracy. Plaintiff's allegations are all speculative as exemplified by her statement that law professors are "very much connected to each other, which would only have made it that much easier for persons at Duke Law to contact and conspire with persons at Georgetown Law to discriminate against Plaintiff." Id. at 12. Plaintiff must allege more than the ease with which the defendants could have conspired but that they actually conspired against her. Therefore, simply because this Court has found claims of conspiracy justiciable in the past, does not mean that those claims are justiciable in this case.

The distinctions between Hilska v. Jones, on which the plaintiff relies heavily, and this case are

fine but clear. In Hilska, this Court found that though the defendant's claims were implausible, they did not rise to the level of "frivolous" as required for dismissal under Rule 12(b)(1). See 297 F. Supp. 2d 82, 89 (D.D.C. 2003); EEOC v. St. Francis Xavier Parochial Sch., 117 F.3d 621, 623-24 (D.C. Cir.1997). Hilska alleged that he was deported and denied asylum as a result of a massive conspiracy involving President George W. Bush, the Attorney General, Senator Hillary Clinton and former President William J. Clinton, among others, in which there were acts of torture, extortion, assault, destruction of documents, and attempted murder. See Hilska, 297 F. Supp. 2d at 84. Specifically, plaintiff alleged he was purposefully given medication by the federal defendants that caused "a splitting headache, strong pain in the urinary tract and intense [swelling] in [his] feet," Senator and former President Clinton broke into and stole contents from his luggage while at an airport, and he was kept in a cold cell for over six months "for killing purposes" by the federal defendants. Id. at 89. The court in Hilska attempted to define frivolous as "rising to the level of irrational or the wholly incredible," while emphasizing that frivolous is not "implausible, namely . . . doubtful, or of questionable merit." Id. at 87. The court determined that Hilska's claims were implausible and not frivolous. See id. at 89.

Evaluating the frivolity of a claim is always a fact-intensive endeavor which requires the definition of "frivolous" to be flexible. In the instant case, based on the facts that plaintiff has alleged, this Court finds that her claims are frivolous and patently insubstantial because it describes a "fantastic and delusional scenario." Best v. Kelly, 39 F.3d 328,

330-31 (D.C. Cir. 1994). Not only is it implausible, but it is irrational, that two prestigious universities, one of the most well-known companies in the world helmed by one of the most powerful men in the world, and the United States government would use their resources to engage in surveillance of plaintiff. Plaintiff, in her delusional allegations, even states that "many persons in corporate America" are also involved in the conspiracy to continue the surveillance over plaintiff. (Pl.'s Am. Compl. [DVI 17], ¶ 212-13).

Another difference between Hilska v. Jones and the instant case is the standard for a pro se plaintiff: The status of a pro se plaintiff, as an attorney or a non-attorney citizen, is one relevant factor in the analysis. Because plaintiff is an attorney, she is not automatically subject to the very liberal standards afforded to a non-attorney pro se plaintiff because an attorney is presumed to have a knowledge of the legal system and need less protections from the court. Hilska was a pro se plaintiff, not an attorney, and therefore his claims were allowed to survive a Rule 12(b)(1) motion to dismiss. See Hilska, 297 F. Supp. 2d at 83. However, in a case similar on its facts to the instant case, the Court dismissed O'Connor's claims when O'Connor was a pro se attorney. See O'Connor v. United States, 159 F.R.D. 22, 23 (D. Md. 1994). Plaintiff has shown, and the Third Circuit agreed in its determination that plaintiff did not need a guardian ad litem, that she can protect her interests in this matter. See Richards v. Duke Univ., 166 Fed. Appx. 595, 599 (3d Cir. 2006). Therefore, because plaintiff is an attorney, and a knowledgeable one at that, this Court will not give her all the benefits of the liberal stan-

dards that are afforded to pro se litigants and plaintiff's pro se status will not weigh in favor of denying the defendants' motions to dismiss.

C. Legal Standard under Rule 12(b)(6)

On a motion to dismiss for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6), this Court must construe the allegations and facts in the complaint in the light most favorable to the plaintiff and must grant the plaintiff the benefit of all inferences that can be derived from the facts alleged. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957). However, the Court does not have to accept asserted inferences or conclusory allegations that are unsupported by facts set forth in plaintiff's complaint. See Kowal v. MCI Communications Corp., 16 F.3d 1271, 1276 (D.C. Cir. 1994); Judicial Watch, Inc. v. Clinton, 880 F. Supp. 2d 1, 7 (D.D.C. 1995) (Lamberth, J.). Even when proceeding pro se, the plaintiff must still meet the notice requirements of Rule 8(a) of the Federal Rules of Civil Procedure and give the defendant "fair notice of the plaintiff's claim and the grounds upon which it rests." Ali v. District of Columbia, 278 F.3d 1, 8 (D.C. Cir. 2002) (citing Sinclair v. Kleindienst, 711 F.2d 291, 293 (D.C. Cir. 1983)). The Court will dismiss a claim pursuant to Rule 12(b)(6) only if defendant can demonstrate "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley, 335 U.S. at 45-46.

D. Analysis under Rule 12(b)(6)

This court will dismiss all counts under either the relevant statute of limitations or failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) or both, as described below.2

1. Count 1: Fraud

Plaintiff's allegations of fraud must fail because they are time-barred and do not plead the necessary elements of fraud with the required specificity. The statute of limitations for a fraud claim in the District of Columbia is three years. See D.C. Code § 12-301. A tort action accrues, under District of Columbia law, "when the plaintiff has knowledge of (or by the exercise of reasonable diligence should have knowledge of) (1) the existence of the injury, (2) its cause in fact, and (3) some evidence of wrongdoing." Knight v. Furlow, 553 A.2d 1232, 1234 (D.C. 1989). Plaintiff's allegations of fraud against the

2. The D.C. Circuit has found sua sponte dismissal without leave to amend is reversible error and warrants a remand except when "the claimant cannot possibly win relief." Baker v. Director, U.S. Parole Comm'n, 916 F.2d 725, 726 (D.C. Cir. 1990). Here, this Court finds that dismissal with leave to amend would be futile because plaintiff would need an entirely fresh set of facts on which to base a claim because the facts alleged affirmatively preclude relief. See Davis v. District of Columbia, 158 F.2d 1342, 1349 (D.C. Cir. 1998). Therefore, plaintiff's claims will be dismissed without leave to amend.

Duke defendants and the Georgetown defendants stem from plaintiff's belief that the purported anonymous grading systems at both schools were not in fact anonymous and misrepresentations that were made to Plaintiff by Dean Sockwell at Duke regarding how to take her law school exams. Plaintiff was aware, by her own admission, of the supposed fraudulent grading scheme at Duke while she was a student at Duke law school during the academic year of 1997-1998 because plaintiff considered filing a claim against Duke for this alleged wrongdoing. (Pl.'s Am. Compl. [DVI 17], ¶143-44). The misrepresentations that the Dean supposedly made to plaintiff occurred in April of 1998, while plaintiff was a student at Duke law school. (Pl.'s Am. Compl. [DVI 17], ¶ 136). Therefore, the claims of fraud against Duke accrued, at the latest, in May of 1998 and considerably more than three years prior to the filing of the complaint in the instant case on May 8, 2003.

Likewise, plaintiff's claim of fraud against Georgetown for a similar grading system that was supposed to be anonymous, but plaintiff believed was not, is also time-barred because any injury that plaintiff had would have accrued would have been while she was a student at Georgetown, prior to her graduation in May 2000. Plaintiff again claimed that she had knowledge of the alleged fraud while she was attending Georgetown and, therefore, the statute of limitations began to run prior to May of 2000 and outside the three-year permissible period to bring a claim. (Pl.'s Am. Compl. [DVI 17], ¶ 149).

Though plaintiff argues that the three-year statute of limitations does not apply to her claim of

fraud or any of her other claims because they arise from continuing violations, her claim of fraud as well as most of the other claims discussed below are time-barred. Plaintiff cites Page v. United States to support her argument that the statute of limitations begins to run, and the injury accrues, when the tortious conduct ceases in a case involving a continuous violation because in such a case, the injury might not be recognizable until the cumulative effect of the violation is known. (Pl.'s Opp'n [44], 42). However, in Page, the continuing violation was clearly distinguishable from the instant case because the plaintiff in Page was subject to many years of allegedly tortious drug treatment which the court found was gradual. See Page v. United States, 729 F.2d 818, 819 (D.C. Cir. 1984). The facts in Page were also governed by specific medical malpractice issues on which courts had previously found the statute of limitations does not begin to run until the end of a course of treatment that is the basis for a malpractice claim to give the plaintiff opportunity to finish the corrective treatment before instituting an action. See id. at 823. In the instant case, plaintiff does not have a medical malpractice claim or allegations of the type of continuing violation that would warrant the application of the continuing tort doctrine. Additionally, subsequent decisions "have rejected the expansive application of the continuing tort doctrine exemplified in Page" and therefore, it is not applicable in this case. Beard v. Edmonson and Gallagher, 790 A.2d 541, 547 (D.C. 2002). This Court will not allow plaintiff to subvert the normal statute of limitations, for a claim that she admits that she was aware of prior to three years before filing her complaint, on the unsteady

grounds of a continuing violation. The tortious activity that plaintiff alleges in this count, the fraudulent grading schemes at Duke and Georgetown and the misrepresentations by Dean Sockwell, are distinct actions or events, both from one another and from the other counts in her complaint, and these discrete incidents cannot be joined together as a continuing violation simply because plaintiff alleges that it was all part of an ongoing and widespread conspiracy. Though plaintiff repeatedly tries to rely on the continuing tort doctrine from Page v. United States to help her claims survive the relevant statute of limitations, the continuing tort doctrine is inapplicable to all of plaintiff's claims because the narrow set of facts to which the doctrine applies are not present in this case.

Even if plaintiff's claim for fraud could survive the statute of limitations, she has not plead the elements of fraud with the required specificity. Under District of Columbia law, a plaintiff must make a prima facie showing of "(1) a false representation, (2) in reference to a material fact, (3) made with knowledge of its falsity, (4) with intent to deceive, and (5) action taken by [plaintiff] in reliance upon representation, (6) which consequently resulted in provable damages." Dresser v. Sunderland Apartments Tenants Ass'n, 465 A.2d 835, 839 (D.C. 1983). Plaintiff has not met this standard because plaintiff has merely alleged that the anonymous grading systems were not actually anonymous at both Duke and Georgetown. Plaintiff has failed to show how, if at all, she relied on this information, especially in regard to Georgetown where she was supposedly aware of the alleged fraud prior to taking her exams. (Pl.'s Am. Compl. [DVI 17], ¶¶ 148-49). Plain-

tiff clearly has not demonstrated any provable damages, though she claims that she received lower grades than she would have otherwise, but fails to show on what facts she is basing this assumption or what cognizable damages the lower grades in turn caused.

With regard to the alleged lies that Dean Sockwell told plaintiff while at Duke about how to take her law school examinations, plaintiff has not alleged a basis for a fraud claim on these events. Though plaintiff refers to this incident often in her complaint and pleadings, plaintiff has refused to explain what Dean Sockwell's misrepresentation consisted of besides only loosely referring to instructions and advice from Dean Sockwell on the manner in which to take law school examinations. (Pl.'s Am. Compl. [DVI 17], ¶ 22). The Duke defendants correctly argue that "there cannot be any truth or falsity, or material facts, in subjective advice from professors [or deans] on how best to tackle law school exams" and therefore, plaintiff has failed to meet her burden on the first two elements of a fraud claim. (Duke Defs.' Mot. to Dismiss [32], 5). These allegations fail to meet the particularity requirement of Rule 9(b) of the Federal Rules of Civil Procedure under which this court has found that the circumstances of fraud must be detailed with particularity, specifically "the time, place and content" of the misrepresentations. Plaintiff has failed to explain any of the specific information regarding these misrepresentations such that it can be considered sufficient to meet the particularly requirement. Additionally, plaintiff has not drawn any sort of causal connection between the false representation and the result, specifically her lower grades. The damages

are clearly not "provable" under the last required element of fraud because to assert that plaintiff's grades were lowered directly and solely because of these misrepresentations is just a guess and impossible to substantiate. Because plaintiff's claim for fraud is time-barred and plaintiff has not established a prima facie claim for fraud regarding either the anonymous grading systems at Duke and Georgetown or the alleged statements made to her by Dean Sockwell, Count I will be dismissed.

2. Counts 2 & 3: Racial and Sexual Discrimination

Plaintiff's claims for racial and sexual discrimination and sexual harassment are timebarred by the appropriate statutes of limitations. Plaintiff brings her claims for discrimination under Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. Neither of these statutes have their own statute of limitations, but courts have borrowed the statute of limitations from 42 U.S.C. §1981 and §1983 which in turn, rely on the respective personal injury statute of limitations in a jurisdiction. See Wilson v. Garcia, 471 U.S. 261 (1985); Doe v. Howe Military School, 227 F.3d 981, 987 (7th Cir. 2000). In the District of Columbia, a personal injury action has a three-year statute of limitations and therefore, a Title VI or Title IX claim also has a three-year statute of limitations in the District of Columbia. See Carney v. American Univ., 151 F.3d 1090, 1096 (D.C. Cir. 1998). As noted in the previous section regarding plaintiff's fraud claims, a tort action accrues, under District of

Columbia law, "when the plaintiff has knowledge of (or by the exercise of reasonable diligence should have knowledge of) (1) the existence of the injury, (2) its cause in fact, and (3) some evidence of wrongdoing." Knight v. Furlow, 553 A.2d 1232, 1234 (D.C. 1989).

Plaintiff was aware of the racial discrimination that she alleges at Duke University before she transferred to Georgetown University for her second year of law school in the fall of 1998 because the racial discrimination played a role in her decision to transfer. (Pl.'s Am. Compl. [DVI 17] ¶143, 162, 167). Plaintiff also states that she was aware of the racial and sexual discrimination and sexual harassment perpetrated by the other defendants during law school and into her third year of law school at Georgetown, which she vaguely describes as attempts to gather information of a sexual nature about her and the surveillance which stemmed from Mr. Gates' obsession with plaintiff as an African-American woman. (Pl.'s Am. Compl. [DVI 17], ¶154, 193, 202). Plaintiff graduated from Georgetown in May of 2000 and filed her complaint in this case on May 8, 2003. Because she was aware, by her own admissions, of the alleged racial and sexual discrimination and sexual harassment during her time at Duke and at Georgetown prior to graduation, her claims therefore fall outside the relevant three-year statute of limitations.

3. Count 4: Constitutional Violations

Plaintiff alleges violations of her First, Fourth, Fifth, Eighth and Thirteenth Amendment rights stemming from the conspiracy she claims

took place between Microsoft, Georgetown, Duke and the United States Government.

As a preliminary matter, plaintiff's claims for Eighth and Thirteenth Amendment violations must be dismissed because her claims, even if true, do not actually comprise Eighth or Thirteenth Amendment violations. The Eighth Amendment protects prisoners from cruel and unusual punishment. Because plaintiff is not a prisoner and has not had a formal adjudication of guilt brought against her, the Eighth Amendment does not apply. See City of Revere v. Mass.General Hosp., 463 U.S. 239, 244 (1983). Plaintiff's analogy that she was like a prisoner because of the alleged surveillance lacks merit. Similarly, plaintiff has no viable claim under the Thirteenth Amendment, which protects against slavery and involuntary servitude, because she has not alleged facts that she was enslaved or coerced in any way by the defendants. Plaintiff's allegations do not describe any compulsory labor that she was forced to endure at the hands of the defendants. See United States v. Kozminski, 487 U.S. 931, 943-44 (1988).

Generally, constitutional protections of individual rights and liberties only apply to actions by governmental bodies. See Edmonson v. Leesville Concrete Co., 500 U.S. 614, 619 (1991). To incorporate the Microsoft, Duke and Georgetown defendants into her claim, plaintiff relies on Bivens v. Six Unknown Narcotics Agents, in which the Supreme Court found that individual federal agents could be sued for damages in their individual capacity for alleged violations of the Fourth Amendment. See 403 U.S. 388 (1971). However, plaintiff's reliance is misplaced because courts have declined to extend

liability beyond the specific facts in Bivens and specifically, to private or corporate entities. In Kauffmann v. Anglo-American Sch. of Sofia, the court reasoned that Bivens liability specifically should not be stretched to cover private entities. See 28 F.3d 1223, 1227 (D.C.Cir. 1994). Microsoft is a private corporation and Duke and Georgetown are also private entities because, though Duke and Georgetown receive some federal funds, it is well-settled law that the receipt of these funds do not elevate these private educational institutions to the status of "state actor." See Spark v. Catholic Univ. of America, 510 F.2d 1277, 1282 (D.C. Cir. 1975). Because there is no private right of action, under Bivens or any other line of cases, to obtain damages from a private entity for constitutional violations, plaintiff's claims under Count 4 against the Microsoft defendants, the Duke defendants and the Georgetown defendants must all be dismissed.

Plaintiff's claim against the Government defendants for constitutional violations fails to state a claim upon which relief can be granted pursuant to Rule 12(b)(6). Though plaintiff is not required to offer proof or evidence at this stage, plaintiff is required to state facts that support her claim as opposed to mere conclusory allegations. Plaintiff's allegations against the Government are brief, though her motions are voluminous, and vague. Plaintiff only claims that the Government was involved in the conspiracy to keep her under surveillance by offering material and support for the surveillance but offers nothing more in the way of specific facts or allegations associated with this claim. (Pl.'s Am. Compl. [DVI 17], ¶ 38-9, 57, 69). These vague and conclusory statements are exactly the type of un-

supported allegations that this Court does not have to accept and are properly dismissed pursuant to Rule 12(b)(6). See Judicial Watch, Inc. v. Clinton, 880 F. Supp. 2d 1, 7 (D.D.C. 1995) (Lamberth, J.).

4. Count 5: Violation of 18 U.S.C. § 2520

Plaintiff's claim that the defendants violated 18 U.S.C. § 2520 is time-barred. The statute prevents the illegal interception, disclosure or intentional use of wire, oral or electronic communication and allows an individual to recover damages for such wrongdoing from a person or entity other than the United States. Section 2520(e) provides for a two-year statute of limitations, such that a civil action must be filed within two years of when the claimant first had reasonable opportunity to discover the violation. Though plaintiff fails to pinpoint specific dates or instances of surveillance, it is clear that the surveillance she alleges, if true, would have begun well outside of the two-year statute of limitations. Plaintiff filed her complaint on May 8, 2003. Plaintiff alleges that the illegal surveillance began during her time at Duke, because officials at Duke were aware of her impending transfer to Georgetown before she had told them and plaintiff left Duke in the spring of 1998. Plaintiff was also aware of the surveillance during her time at

Georgetown, and realized that Microsoft was involved in the surveillance some time in late 1999. Therefore, assuming her facts were true, plaintiff had knowledge of, as well as a reasonable opportunity to discover, the violation prior to two years before she filed her complaint, so her claim under Count 5 must be dismissed.

Additionally, even if plaintiff's claim had survived the statute of limitations, she fails to allege any of the five distinct elements that are needed to bring a cause of action under the statute. A plaintiff must prove that the defendant: "(1) intentionally (2) intercepted, endeavored to intercept or procured another person to intercept or endeavor to intercept (3) the contents of (4) an electronic communication (5) using a device." Blumofe v. Pharmatrak, Inc. (In re Pharmatrak Privacy Litig.), 329 F.3d 9, 18 (1st Cir. 2003). Plaintiff has not specifically alleged any of the five necessary elements and her unsupported connections and conclusions are insufficient to serve as the basis of this claim. Therefore, plaintiff's claim under Count 5 for violations of 18 U.S.C. § 2520 must also be dismissed for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6).

5. Counts 6, 7 & 8: Violations of 42 U.S.C. § 1981, § 1985 and § 1986

Plaintiff brings claims for violations of 42 U.S.C. § 1981, § 1985 and § 1986 against all the defendants in this case. As a preliminary matter, 42 U.S.C. § 1981 explicitly refer to actions by state actors in that "the rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law." 42 U.S.C. § 1981(c). Where the plaintiff does not allege state action in the complaint, such as here where none of the defendants, Microsoft, Duke, Georgetown and the United States Government, are state actors, claims brought under § 1981 must be dismissed. See Bilello v. Kum & Go, 374 F.3d 656

(8th Cir. 2004); Davis-Warren Auctioneers, J.V. v. FDIC, 215 F.3d 1159, 1161 (10th Cir. 2000).

42 U.S.C. § 1981(a) ensures that all citizens "have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence" as well as enjoy the "full and equal benefits of all laws and proceedings." To bring a claim for a violation of §1981, the plaintiff must show that there was a contractual relationship that was impaired. See Domino's Pizza v. McDonald, 126 S.Ct. 1246, 1249 (2006). Plaintiff has not alleged any contractual relationship with Microsoft or the Government. Even if plaintiff's relationships with Duke and Georgetown were contractual to the extent that they entered a contractual relationship for her legal education, that relationship was not impaired nor were her rights violated because she graduated with a law degree, worked in private legal practice and was employed by a court in the Virgin Islands. Plaintiff's vague attempts to show impairment by arguing that the defendants have interfered with plaintiff's "right to contract to obtain a legal education free of racial animus", and they have further interfered with plaintiff's right to earn a living free of racial discrimination, are simply unsubstantiated and not a valid foundation for a § 1981 claim. (Pl.'s Opp'n [53], 23).

Under 42 U.S.C. § 1985(3), it is illegal for individuals or parties to conspire to deprive any person or class of person of their civil rights or equal protection of the laws. As discussed above, plaintiff has not alleged facts, as opposed to conclusory and unsupported allegations, of a conspiracy, so her claim of a violation of her rights under 42 U.S.C. § 1985 must be dismissed.

42 U.S.C. § 1986 punishes those who have knowledge of a conspiracy, as mentioned in § 1985, and failed to prevent such wrongdoing. Since plaintiff's claim under 42 U.S.C. § 1985 fails, her claim under 42 U.S.C. § 1986 must also be dismissed because there is no conspiracy of which any of the defendants can be liable for failing to prevent. Additionally, § 1986 has a one-year statute of limitations to bring a claim once a cause of action under the state has accrued. Plaintiff's allegations show that, if true, she had knowledge of the ongoing conspiracy, well before May 8, 2002 (one year prior to her filing of the complaint) and therefore her claim is time-barred.

6. Count 9: Intentional Infliction of Emotional Distress

For a successful claim of intentional infliction of emotional distress, a plaintiff must demonstrate "(1) 'extreme and outrageous' conduct on the part of the defendant which (2) intentionally or recklessly (3) causes the plaintiff 'severe emotional distress.'" Sere v. Group Hospitalization, Inc., 443 A.2d 33, 37 (D.C. 1982). In the instant case, plaintiff has failed to show either of the required elements of extreme and outrageous conduct or severe emotional distress. Plaintiff failed to specify what conduct by the defendants was extreme and outrageous. Additionally, plaintiff has not alleged an injury that amounts to severe emotional distress because she was not prevented from obtaining her law degree or working as a result of the alleged surveillance. Accordingly, plaintiff's claim for intentional infliction of emotional distress must be dismissed

for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6).

7. Count 10: Civil Conspiracy

In the District of Columbia, a plaintiff must prove four necessary elements to make a claim for civil conspiracy: "(1) an agreement between two or more persons; (2) to participate in an unlawful act, or a lawful act in an unlawful manner; (3) an injury caused by an unlawful overt act performed by one of the parties to the agreement; (4) which overt act was done pursuant to

and in furtherance of the common scheme." Halberstam v. Welch, 705 F.2d 472, 477 (D.C. Cir. 1983). Furthermore, "there is no recognized independent tort action for civil conspiracy in the District of Columbia" because a claim for civil conspiracy must be initially based on an underlying tortious act. Id. at 479. In the instant case, plaintiff has not alleged with any specificity or particularity that there was an underlying tort or a conspiracy to warrant a claim for civil conspiracy. Therefore, plaintiff's claim for civil conspiracy must be dismissed for failure to state a claim upon which relief can be granted under Rule 12(b)(6).

8. Count 11: Invasion of Privacy

Plaintiff's claim for invasion of privacy must be dismissed because it is time-barred by the relevant statute of limitations. A one-year statute of limitations for invasion of privacy claims has been instituted in the District of Columbia. See Grun-

seth v. Marriott Corp., 872 F. Supp. 1069, 1074 (D.D.C. 1995). Plaintiff, in the instant case, does not clearly allege from what facts her invasion of privacy claim arises but it is most likely from the alleged surveillance. Plaintiff, by her own admission, became aware of the alleged surveillance at some time just before or during her second year of law school, between May and August of 1998, because information gained from the surveillance was used "humiliate, embarrass and discriminate" against her during this time. (Pl.'s Am. Compl. [DVI 17], ¶ 166). Plaintiff did not file the complaint in this case until May 8, 2003. Therefore, plaintiff's claim was well outside the oneyear statute of limitations for an invasion of privacy claim and Count 11 must be dismissed.

9. Counts 12: Interference with Prospective Advantage

Plaintiff has failed to state a claim for interference with prospective advantage upon which relief can be granted. The District of Columbia Court of Appeals has described prospective advantage as "business expectancies, not grounded on present contractual relationships but which are commercially reasonable to anticipate, [and] are considered to be property." McManus v. MCI Communs. Corp., 748 A.2d 949, 957 (D.C. 2000). A court will not consider to be a prospective advantage a consequence or relationship that is too attenuated or remote. Microsoft defendants correctly argue that because plaintiff has failed to allege the existence of a "valid business relationship [with any of the defendants] that supposedly was thwarted by the defendant's

conduct," (Microsoft Defs.' Reply [28], 22) plaintiff's claim must be dismissed for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6).

10. Count 13: Theft of Intellectual Property

Plaintiff alleges in her complaint that the Microsoft defendants stole her intellectual property in the form of ideas about wireless email, ways for the company to increase revenue and changing the name of Microsoft's Web TV to MSN TV. (Pl.'s Am. Compl. [DVI 17], ¶ 268-69). As a threshold matter, it is well-settled law that an "idea of itself is not patentable." Gottschalk v. Benson, 409 U.S. 63, 67 (1972). Plaintiff has simply alleged on this count that the Microsoft defendants stole her ideas and nothing more, and therefore, her claim for theft of intellectual property must be dismissed for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6).

11. Count 14: Punitive Damages

Plaintiff's claim for punitive damages must be dismissed following the dismissal of all the underlying claims in this case.

E. Plaintiff's Motion to Strike Georgetown Defendant's Exhibits

In light of the dismissal of all of plaintiff's substantive claims, plaintiff's motion [23] to strike all exhibits filed by the Georgetown defendants will

be DENIED as moot.

CONCLUSION

For the reasons stated herein, the Court will grant the Duke defendants' motions [17, 18,32] to dismiss, the Georgetown defendants' motions [11, 50] to dismiss, the Government defendants' motion [DVI 200] to dismiss, and the Microsoft defendants' motions [DVI 219, 43] to dismiss. The Court will deny plaintiff's motion [48] for leave to take jurisdictional discovery and plaintiff's motion [23] to strike the Georgetown defendant's exhibits.

A separate Order will issue this date.

Signed by Royce C. Lamberth, United States District Judge, March 30, 2007.

United States District Court
for the District of Columbia

Suzette Richards,

v.

Duke University, et al.,

Civil Action No. 06-01179 (RCL)

March 30, 2007

LAMBERTH, Judge.

ORDER

In accord with the Memorandum Opinion issued this date, it is hereby

ORDERED that the Duke University defendants' motions [17, 18, 32]to dismiss are GRANTED WITH PREJUDICE; it is further

ORDERED that the Georgetown University defendants' motions [11, 50] to dismiss are GRANTED WITH PREJUDICE; it is further

ORDERED that the United States Government defendants' motion [DVI 200] to dismiss is GRANTED WITH PREJUDICE; it is further

ORDERED that the Microsoft defendants' motions [DVI 219, 43] to dismiss are GRANTED WITH PREJUDICE; it is further

ORDERED that the plaintiff's motion [23] to strike exhibits filed by the Georgetown defendants

is DENIED; and it is further

ORDERED that the plaintiff's motion [48] for leave to take jurisdictional discovery is DENIED.

This action now stands DISMISSED WITH PREJUDICE.

SO ORDERED.

Signed by Royce C. Lamberth, United States District Judge, March 30, 2007.

United States District Court
for the District of Columbia

Suzette Richards,

v.

Duke University, et al.,

Civil Action No. 06-01179 (RCL)

March 30, 2007

LAMBERTH, Judge.

ORDER

In accord with the Memorandum Opinion issued this date, it is hereby

ORDERED that plaintiff's Cross-Motion [36] for Jurisdictional Discovery is DENIED; for the same reasons the Court denied plaintiff's Motion [48] for Leave to Take Jurisdictional Discovery. The motions are essentially identical, as are the arguments plaintiff advances on their behalf. As stated in the Court's Memorandum Opinion [60], "plaintiff has not alleged the underlying conspiracy with enough specificity to warrant jurisdictional discovery based on the conspiracy doctrine." As also stated in the Court's Opinion, plaintiff has failed to any facts that, taken separately or in aggregate, could support general jurisdiction on a "doing business" theory, and plaintiff is thus not entitled to discovery on those topics.

SO ORDERED.

Signed by Royce C. Lamberth, United States District Judge, March 30, 2007.

IN THE DISTRICT COURT
OF THE VIRGIN ISLANDS

ST. CROIX DIVISION

SUZETTE RICHARDS,	)
	)Civ. No. 2003/0079
Plaintiff,	)
	)ACTION FOR
v.	)DAMAGES,
	)DISCRIMINATION,
DUKE UNIVERSITY, et	)AND DECLARATORY
Al,	)AND INJUNCTIVE
Defendants.	) RELIEF
	)
	)JURY TRIAL
	)DEMANDED

FIRST AMENDED COMPLAINT

COMES NOW Plaintiff, and for her Complaint, states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 as Plaintiff asserts claims arising under the laws of the United States, including violations of the First, Fourth, Fifth, Eight, and Thirteenth Amendments to the United States Constitution, and violations of 18 U.S.C. §§ 2510-2522, 20 U.S.C. §§ 1681-1688, 42 U.S.C. § 1981. 42 U.S.C. § 1985, 42 U.S.C. § 1986, and 42 U.S.C. §§ 2000d-2000d-7. This Court has pendent jurisdiction over related state and territorial causes of action.

2. This Court also has jurisdiction pursuant to 28

U.S.C. § 1332, as the parties are of diverse citizenship and the amount in controversy exceeds, exclusive of interest and costs, the amount specified in 28 U.S.C. § 1332, which is $ 75,000.

3. Plaintiff is a citizen of St. Croix, which is a part of the United States Virgin Islands.

4. Defendant Duke University ("Duke") is a private educational institution located in Durham, North Carolina and is a citizen of the state of North Carolina.

5. Defendant Duke University School of Law ("Duke Law") is a private legal institution that is a part of Duke University. Duke Law is located in Durham, North Carolina and is a citizen of North Carolina.

6. Defendant Duke University Board of Trustees ("Duke Trustees") is comprised of thirty-six elected members and the President of the University, *ex officio*. The Duke Trustees are responsible for overseeing all aspects of the Duke University community and all meetings of the Duke University Trustees are supposed to be held at Duke University in Durham, North Carolina.

7. Defendant Nannerl Keohane ("Keohane") is the President of Duke University, and is a citizen of North Carolina. Defendant Keohane is sued herein, in her personal and official capacity as President of Duke University, and as a direct participant, aider and abettor, and co-conspirator in the fraudulent, discriminatory, and criminal acts described below.

8. Defendant Georgetown University ("Georgetown") is a private educational institution located in Washington, D.C. and is a citizen of Washington, D.C.

9. Defendant Georgetown University Law Center ("Georgetown Law") is a private legal educational institution that is a part of Georgetown University. Georgetown Law is located in Washington, D.C. and is a citizen of Washington, D.C.

10. Defendant John Ashcroft is the Attorney General of the United States and is being named in his official capacity as Head of the U.S. Department of Justice and the Federal Bureau of Investigation. Attorney General Ashcroft's offices are located at 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

11. Defendant Federal Bureau of Investigation ("FBI") is an agency and entity of the United States Government. The FBI's headquarters are located in Washington, D.C.

12. Defendant United States Department of Justice ("DOJ") is an agency and entity of the United States Government and is headquartered at 950 Pennsylvania Avenue, Washington, D.C. 20530. Defendant DOJ has its principal place of business in Washington, D.C.

13. Defendants John and Jane Does 1-10 ("Does 1-10") are past and/or present employees of the FBI and DOJ, whose identities are currently unknown, but who committed, aided, abetted, participated in, conspired with, and furthered the fraudulent, dis-

criminatory, and criminal acts described below. Plaintiff will seek leave of Court to identify these Does by their proper names and capacities when that information is ascertained.

14. Defendant William H. Gates, III ("Gates"), also known as Bill Gates, is the Chairman of Microsoft Corporation and is a citizen of the state of Washington. Defendant Gates is being sued in his personal and official capacity as Chairman of Microsoft Corporation and as a direct participant, aider and abettor, and co-conspirator in the discriminatory, and criminal acts described below.

15. Defendant Steve Ballmer ("Ballmer") is the Chief Executive Officer ("CEO") of Microsoft Corporation and is a citizen of the state of Washington. Defendant Ballmer is being sued in his personal and official capacity as Chief Executive Officer of Microsoft Corporation, and as a direct participant, aider and abettor, and co-conspirator in the discriminatory, and criminal acts described below.

16. Defendant Microsoft Corporation ("Microsoft") is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at One Microsoft Way, Redmond, Washington. Microsoft sells and licenses personal computer ("PC") operating systems throughout the United States and the world and delivers copies of its operating systems to Original Equipment Manufacturers ("OPM's") and retail customers across state lines and international borders. Microsoft is engaged in, and its activities substantially affect, interstate and foreign commerce.

17. Defendants Microsoft Employees A-J ("Employees A-J") are past and/or present executives and employees of Microsoft Corporation, whose identities are currently unknown, but who committed, aided, abetted, participated in, conspired with, and furthered the discriminatory and criminal acts described below. Plaintiff will seek leave of Court to identify Employees A-J by their proper names and capacities when that information is ascertained.

18. Defendant Melinda Gates is married to Bill Gates and is a member of the Duke Board of Trustees. Defendant Melinda Gates is a citizen of the state of Washington. Defendant Melinda Gates is being sued in her personal and official capacity as a member of the Duke Board of Trustees, and as a direct participant, aider and abettor, and co-conspirator in the fraudulent, discriminatory, and criminal acts described below.

19. Defendants Duke, Duke Law, Georgetown and Georgetown Law are recipients of federal funds.

20. Defendants Duke, Duke Law, Duke Trustees, and Keohane are collectively referred to herein as the "Duke Defendants".

21. Defendants Georgetown and Georgetown Law are collectively referred to herein as the "Georgetown Defendants".

22. Defendants John Ashcroft, FBI, DOJ, and Does 1-10 are collectively referred to herein as the "Government Defendants".

23. The Government Defendants referred to herein are federal actors who act under color of law.

24. Defendants Bill Gates, Steve Ballmer, Microsoft, and Microsoft Employees A-J are collectively referred to herein as the "Microsoft Defendants".

25. Plaintiff is a black female, who is a native of the United States Virgin Islands.

26. Plaintiff grew up on the island of St. Croix and speaks with a slight West Indian accent.

27. Plaintiff attended elementary school, junior high school, and high school on the island of St. Croix before departing to begin her undergraduate studies at Duke University in the continental United States.

28. Plaintiff attended Duke University from 1992 through 1996, and graduated from Duke in May of 1996.

29. Plaintiff is an alumnus of Duke University.

30. Plaintiff matriculated to Duke Law in the Fall of 1997.

31. Plaintiff remained at Duke Law for her first year of law school, the 1997-1998 school year.

32. At the end of Plaintiff's first year of law school, Plaintiff transferred to Georgetown Law. Plaintiff remained at Georgetown Law for her second and

third years of law school, and graduated from Georgetown Law in late May of 2000.

33. Plaintiff took the Virgin Islands Bar in July of 2001, and passed her bar examination the first time she took it.

34. Plaintiff was admitted to the Virgin Islands Bar in December of 2001.

35. At the end of Plaintiff's first year of law school, Plaintiff transferred to Georgetown Law because of the overwhelming degree of bigotry and systematic and institutionalized racism and discrimination in existence at Duke Law.

36. Persons at Duke Law have engaged in a pattern and practice discrimination against minority students for years, and they continue to engage in that pattern and practice of discrimination through today.

37. Plaintiff was discriminated against on the basis of race, national origin, and sex by the Duke Defendants while she was a student at Duke Law, and the discrimination continued after Plaintiff transferred from that school.

38. From the end of Plaintiff's first year of law school, the Duke Defendants conspired with the Government Defendants to illegally place Plaintiff under electronic surveillance to obtain information to continue to discriminate against Plaintiff, as well as to harass, humiliate, degrade, demean, and terrorize Plaintiff.

39. After Plaintiff transferred to Georgetown Law, the Duke Defendants conspired with the Georgetown Defendants and the Government Defendants to continue to illegally keep Plaintiff under electronic surveillance and to discriminate against Plaintiff.

40. During Plaintiff's third year of law school, the Microsoft Defendants joined the existing conspiracy to discriminate against Plaintiff.

41. After Plaintiff graduated from Georgetown Law, all of the defendants continued to discriminate against Plaintiff.

42. In fact, through today, as of the filing of the instant action, all of the defendants have continued to discriminate against Plaintiff, right here in the United States Virgin Islands.

43. The discriminatory and criminal acts that Plaintiff has continuously experienced for more than five years, have taken place in every place Plaintiff has lived and stayed since Plaintiff's first year of law school at Duke Law.

44. The discriminatory and criminal acts described herein have taken place in Durham, North Carolina, Silver Spring, Maryland (where Plaintiff lived for the first semester of her second year of law school in the Fall of 1998), Washington, D.C. (where Plaintiff attended law school at Georgetown through May of 2000, and lived for the second semester of Plaintiff's second year of law school and Plaintiff's third year of law school through August of 2000),

Charlotte, North Carolina (where Plaintiff stayed for part of 2000, and from October 2001 through November 2002), and in the United States Virgin Islands (where Plaintiff lived from October 2000 through October 2001, and from November 2002 through the present).

45. The discriminatory acts have even continued to take place when Plaintiff traveled to a foreign country to attend a continuing legal education program in June of 2002.

46. The discriminatory, fraudulent, and criminal acts described herein include, but is not limited to, the conspiracy between Defendants to place Plaintiff under illegal electronic surveillance and keep Plaintiff under illegal electronic surveillance in violation of federal criminal laws and Plaintiff's civil rights.

47. Over the past five years, the illegal interception of the illegal electronic surveillance that Plaintiff has been subjected to has grown to include not only the Defendants named herein, but persons and companies in corporate America, the media, and all over the world.

48. There has never been any basis in law or fact to place Plaintiff under electronic surveillance or any kind of surveillance.

49. In fact, the illegal surveillance began because of the racism of persons at Duke Law, and it has been sustained by their bigotry, as well as the bigotry of their co-Defendants and other co-conspirators, who

have continuously used information from the surveillance to discriminate against Plaintiff in an attempt to cover up the discrimination at Duke Law.

50. That aside from a legal internship at DOJ during the summer of 1999, which involved a background check that Plaintiff passed successfully, Plaintiff has not been employed with any agency, department, office, or entity that is a part of the United States Government.

51. Plaintiff does not work for or with any government official or employee, and Plaintiff does not advise or counsel persons associated with the government. Instead, Plaintiff is an attorney who is employed in the United States Virgin Islands with a private employer that is located in the town of Christiansted, on the island of St. Croix.

52. That Plaintiff has not been involved in any criminal activity, and the electronic surveillance is not related to any criminal investigation.

53. That at no time has there ever been probable cause to place Plaintiff under any kind of surveillance, much less the breathtakingly broad form of surveillance that Plaintiff has been subjected to, which has been an extraordinary invasion of Plaintiff's privacy.

54. That the illegal electronic surveillance Plaintiff has been continuously subjected to for the past five years has included listening devices and hidden video camera surveillance in Plaintiff's home, including Plaintiff's bedroom and bathroom, and wire-

taps on Plaintiff's phone.

55. That these continuous acts have not only been extraordinarily abusive and invasive, but have demonstrated to Plaintiff that Defendants are sexual predators intent on harming Plaintiff.

56. That the Defendants and other co-conspirators have use the illegal surveillance in Plaintiff's home to attempt to obtain information of a sexual nature about Plaintiff, and specifically attempt to see if Plaintiff is engaged in sexual intercourse, and if she is, with whom Plaintiff is having sex.

57. That the Duke Defendants, Georgetown Defendants, and Government Defendants have continued to conspire amongst themselves to keep Plaintiff under illegal surveillance because not only do they want to continue to discriminate against and torture Plaintiff, but they fear that if Plaintiff is not kept under this illegal surveillance, Plaintiff may have a relationship with a man who is both white and wealthy.

58. That the Duke Defendants, Georgetown Defendants, and Government Defendants, who are racist, object to Plaintiff, who is black, having a relationship with someone who is white and wealthy because they fear it would interfere with the existing, ongoing conspiracy that they have put in place to harass and retaliate against Plaintiff because she objected to the discrimination that exists at Duke Law.

59. That Plaintiff is even subject to illegal electronic

surveillance when Plaintiff goes to a doctor for a medical examination or medical checkup.
60. That when Plaintiff went for a medical examination at Georgetown Law during her second semester of law school, Plaintiff was under illegal electronic surveillance, and medical information from this examination was disseminated to Plaintiff's law school professors, and other persons, in furtherance of the conspiracy to discriminate against Plaintiff.

61. In fact, because of the presence of the illegal surveillance, Plaintiff is afraid to get a medical examination, and refuses to get a medical examination without some form of injunctive relief, because she is aware that the entire examination would be under illegal surveillance, which would be illegally intercepted by and disseminated to persons all over the world, in violation of Plaintiff's rights.

62. That notwithstanding this fear to get a medical examination, in December of 2002, on the island of St. Croix, Plaintiff did go to a doctor's office to get a prescription and get her blood pressure checked, and during this time, Plaintiff was under illegal electronic surveillance and the information regarding Plaintiff's blood pressure was disseminated widely into the public domain, in violation of the law, because of the illegal surveillance.

63. Plaintiff has also been subject to illegal electronic surveillance at places where Plaintiff has worked.

64. In fact, Plaintiff was illegally under electronic surveillance when Plaintiff worked as a law clerk at

the Territorial Court of the Virgin Islands on St. Croix from October 2000 to October 2001.
65. Additionally, as the surveillance has been continuous, Plaintiff is even under illegal electronic surveillance at Plaintiff's current place of employment in Christiansted, St. Croix.

66. Plaintiff is even monitored when she is on the Internet, and many people read through Plaintiff's e-mails.

67. The illegal surveillance Plaintiff has been subjected to is a roving form of surveillance that goes wherever Plaintiff goes, which includes cars and even planes.

68. That what prompted the illegal surveillance was the fact that Plaintiff objected to discriminatory practices against Plaintiff and other minority students at Duke Law, and Plaintiff told a student that she was thinking about filing an action for discrimination against Duke Law because Plaintiff was being discriminated against by persons at Duke Law.

69. That while the Government Defendants have provided the material and support to illegally place Plaintiff under electronic surveillance, the information from this surveillance has been intercepted by and disseminated to numerous people who are NOT law enforcement personnel.

70. That the interception and dissemination of the information from the illegal electronic surveillance by the Defendants has been intentional and willful, and all Defendants are keenly aware of the existing,

ongoing conspiracy to discriminate against Plaintiff, and the manner in which the illegal electronic surveillance is used in furtherance of the conspiracy.

71. That the information obtained form the surveillance has not been used for law enforcement purposes, but instead has been used to aid and abet law professors at Duke Law, as well as other persons in the Duke community, and in the Georgetown community, in harassing and discriminating against Plaintiff, and adversely affecting Plaintiff academically, professionally, and personally.

72. That the Defendants have also used the information obtained from the illegal surveillance to terrorize and torture Plaintiff, allow for the theft of Plaintiff's intellectual property, and subject Plaintiff to severe emotional distress.

73. In fact, because of the illegal surveillance, which has included listening devices and video surveillance, Defendants have had firsthand knowledge of the devastating impact the illegal surveillance has had on Plaintiff's emotional well being, but they remain indifferent to the harm that they have caused and continue to cause to Plaintiff.

74. For some time now, Plaintiff has even feared for her life because of the illegal surveillance, and the Defendants are aware of this, but they simply do not care.

75. That the illegal surveillance has even chilled Plaintiff's First Amendment right to free speech. While in law school, Plaintiff was always cautious of

any comments she made regarding the law, even in her own home, as she feared those comments would be used against her to adversely affect her academic experience because of the illegal surveillance.

76. Plaintiff still remains cautious about private statements made about the law and other matters, in her own home, which is illegally intercepted by many people, because she knows the defendants will use the statements to discriminate against and harass her.

77. In fact, even today, in Plaintiff's own home, Plaintiff is often fearful after she has expressed an opinion about something, because with the widespread dissemination of information from the surveillance, Plaintiff fears that something she says may upset someone, who is illegally monitoring Plaintiff, so much, that Plaintiff might be physically harmed because of it.

78. That from July 2002 to September 2002, Plaintiff reported the discriminatory, fraudulent and criminal acts described herein to at least six different government offices in the United States Government, so that this matter could be investigated.

79. That these government offices included, but was not limited to, the Criminal Division at DOJ, which is responsible for applications for court orders pursuant to the federal criminal wiretapping statute, and United States Attorneys' Offices (USAO) located in Washington, DC and Charlotte, North Carolina.

80. That it was on July 12, 2002 that Plaintiff reported the discriminatory, fraudulent, and criminal acts described herein to the Criminal Division at DOJ, and specifically requested that they commence a criminal investigation into violations of the federal criminal wiretapping statute, codified at 18 U.S.C. § 2511, the federal criminal conspiracy statute, codified at 18 U.S.C. § 371, and the federal criminal civil rights statutes, codified at 18 U.S.C. § 241 and 18 U.S.C. § 242.

81. That in this letter, Plaintiff also advised the Criminal Division at DOJ that persons intercepting the illegal electronic surveillance also used the surveillance to steal Plaintiff's intellectual property, which Plaintiff compared to slavery, involuntary servitude, and forced labor, which are all prohibited in the United States pursuant to the Thirteenth Amendment to the United States Constitution and 18 U.S.C. § 1589.

82. That in this letter, Plaintiff specifically requested immediate injunctive relief to end the illegal electronic surveillance Plaintiff has been subjected to.

83. That because Plaintiff had not heard anything from the Criminal Division at DOJ by September of 2002, and Plaintiff was still being harassed and discriminated against, Plaintiff decided to forward her request for a criminal investigation to USAO's in Washington, D.C. and Charlotte, North Carolina.

84. That in October of 2002, Plaintiff contacted the Criminal Division at DOJ to find out the status of

the criminal complaint she had submitted, and she was told that in August of 2002 the complaint had been forwarded to the Public Integrity Section of the Criminal Division, which is the section that handles complaints involving serious criminal misconduct by elected and appointed government officials.

85. That in October of 2002, Plaintiff also contacted the USAO in Washington, D.C. to find out the status of her complaint, and even left a message at that office, but no one ever called Plaintiff back.

86. That in October of 2002, Plaintiff also contacted the USAO in Charlotte, North Carolina to find out the status of her complaint, and she was told by an attorney in that office that her complaint would be forwarded to the FBI to be investigated because it involved discrimination at law schools.

87. That upon learning this, Plaintiff even called the Charlotte, North Carolina office of the FBI to find out the status of her complaint and left a message for them to call her back. However, not surprisingly, Plaintiff has not heard anything from the FBI about investigating her complaint.

88. As of today, to the best of Plaintiff's knowledge, none of the offices that Plaintiff has reported this matter to have investigated it, and Plaintiff is certain that they have not provided any injunctive relief, as Plaintiff continues to be discriminated against and remains under illegal electronic surveillance today.

89. In fact, right AFTER Plaintiff submitted the

criminal complaint to the Criminal Division at DOJ, warning that persons at Duke Law would attempt to steal Plaintiff's intellectual property and create programs or courses at that school, as they had done in the past, based on Plaintiff's comments that were intercepted from the illegal surveillance, persons at Duke Law did just that.

90. After Plaintiff submitted her complaint to the Criminal Division at DOJ in July of 2002, persons at Duke Law actually created two programs at the law school relating to the courses Plaintiff took and comments Plaintiff made at the continuing legal education program Plaintiff attended in June of 2002.

91. The programs were scheduled to take place in September and October of 2002. One of the programs that persons at Duke Law created involved the difference between English and American civil justice systems, and the other was a symposium on mandatory arbitration.

92. No one from Duke Law had attended the continuing legal education program, and thus, were certainly not present when Plaintiff's comments were made.

93. Around this same time, someone *anonymously* gave one million dollars to Duke Law for the creation of a center regarding the use of intellectual property that they consider to be in the public domain.

94. This center, the first of its kind, was supposed to

focus on material persons at Duke Law did not consider to be protected by intellectual property laws, but was instead material freely available to everyone to use and build upon.

95.. That over the time that Plaintiff has been discriminated against by the Duke Defendants, alumni and supporters of Duke University have contributed billions of dollars to that institution.

96. That Defendants Bill and Melinda Gates have contributed millions of dollars to Duke University during the period of time that Plaintiff has been subject to the discrimination more fully described herein.

97. That Defendant Keohane, who is President of Duke University, is considered to be the chief fundraiser of the institution.

98. That from Plaintiff's first year of law school at Duke Law, through the present, Defendant Keohane has been the President of Duke University.

99. That Defendant Keohane was aware of the discrimination and violations of Plaintiff's rights from Plaintiff's first year of law school at Duke Law and she continues to be aware of the ongoing discrimination today.

100. That Defendant Keohane was not just aware of the discrimination Plaintiff was experiencing and continues to experience, but that Keohane directly participated in, and aided and abetted, and conspired with other Duke Defendants, as well as the

Georgetown Defendants and Government Defendants, and other co-conspirators, in violating Plaintiff's rights.

101. That persons on the Duke Board of Trustees were also aware of the discrimination and violations of Plaintiff's rights from Plaintiff's first year of law school at Duke Law and they continue to be aware of the ongoing discrimination today.

102. That the Duke Trustees aided and abetted and conspired with persons in the Duke community, including Defendant Keohane and professors at Duke Law, as well as the Georgetown Defendants and the Government Defendants, and other co-conspirators, to violate Plaintiff's rights and discriminate against Plaintiff.

103. That the discrimination Plaintiff has experienced has been designed to protect the system of discrimination against minorities that is in existence at Duke Law. Persons at Duke Law, and their co-conspirators have committed many discriminatory acts, as described herein, to not only adversely affect Plaintiff personally, academically, and professionally, but to try to cover up the discrimination persons at Duke Law engage in.

104. That the Duke Defendants, along with the Georgetown Defendants and the Government Defendants have engaged in a number of continuous discriminatory acts, throughout Plaintiff's years in law school, that have been designed to lower and adversely affect Plaintiff's grades, journal experience, and job prospects, including any job applica-

tions for judicial clerkships.

105. As a first year student at Duke Law, Plaintiff discovered that faculty and administrators at Duke Law were engaging in a willful, intentional, deliberate, fraudulent grading scheme, designed to facilitate an overarching scheme of discrimination against minority students.

106. In furtherance of the fraudulent grading scheme, the Dean of Students at Duke Law at the time, Susan Sockwell ("Sockwell"), intentionally and willfully lied to students about how to take exams.

107. At the beginning of Plaintiff's first year of law school, Plaintiff was aware that there had never been a black person on one of the two most prestigious journals at Duke Law, the Duke Law Journal ("DLJ"), in the more than twenty (20) years that blacks had attended that school.

108. Plaintiff later learned, during her first year of law school, that there had never been a black person on the other most prestigious journal at Duke Law, the Journal of Law and Contemporary Problems ("LCP"), in the more than twenty (20) years that blacks had attended that school.

109. Plaintiff suspected that as of the 1997-1998 school year there may not have been any minority students on either of those two law journals in the entire history of the law school.

110. In fact, persons at Duke Law did not place the first black person on the Journal of Law and Con-

temporary Problems until the beginning of the 1998-1999 school year, which was just after Plaintiff had transferred from the school and they feared that Plaintiff would file an action against them for discrimination.

111. Plaintiff was also not aware of any black person that had ever clerked on the federal appellate level and suspected that there were very few, if any blacks, that had clerked on the federal district court level as of the 1997-1998 school year.

112. Plaintiff also suspected that as of the 1997-1998 school year, there may never even have been any black person, or minority, that had graduated from Duke Law with high honors, or any kind of honors at all, in the entire history of the law school.

113. Plaintiff learned in the beginning of her first year of law school, from a second year black student at Duke Law, that the reason there had never been a black person on the DLJ is because black students do not know how to take law school exams.

114. In fact, Plaintiff's first year Civil Procedure Professor, Professor Paul Carrington, made a similar statement in Plaintiff's first year Civil Procedure class that Plaintiff took during Plaintiff's first semester of law school in the Fall of 1997.

115. Professor Carrington stated that some students do not do well on law school exams because they do not know how to take law school examinations, and he was looking directly at Plaintiff when he said it.

116. At the time Professor Carrington made this statement, while looking at Plaintiff, Plaintiff had not even taken a law school examination at Duke Law, as this was during the first semester of Plaintiff's first year of law school.

117. Plaintiff learned from the second year black student that because black students did not know how to take law school exams, black students did not have high enough grades to secure placement on the DLJ.

118. At Duke Law the overwhelming majority of grades are determined solely based on a student's performance on the final exam. In fact, while Plaintiff was at Duke Law, with the exception of Plaintiff's legal research and writing course, all of Plaintiff's grades were supposed to be determined based solely on Plaintiff's performance on her final exams.

119. This student told Plaintiff that during the 1996-1997 school year, which is the year before Plaintiff matriculated to Duke Law, professors at Duke Law had even volunteered to "help" and work with black students so they could learn how to take exams and do well enough to secure placement on the DLJ and the school's other journals.

120. However, Plaintiff learned that even with this alleged "help" from professors at Duke Law, no black student secured placement on the DLJ.

121. Plaintiff also learned that even with the alleged "help" from professors at Duke Law, no black student secured placement on the LCP, the other

most prestigious journal at Duke Law.

122. In fact, even with this "help" from professors at Duke Law, and even though all or most of the first year black students participated in the school's write on competition, which is used to determine which students are placed on what journals, upon information and belief, no black student made it onto any of the journals at Duke Law at the end of the 1996-1997 school year.

123. During Plaintiff's first semester of law school, black students who were supposedly "helped" by professors at Duke Law during the 1996-1997 school year, instructed black students to take law school examinations in the same way that Dean Sockwell had instructed students to take their law school examinations.

124. In reliance on instructions from Dean Sockwell, Plaintiff took her first semester law school examinations in the manner that Dean Sockwell had instructed.

125. When Plaintiff received her first semester grades in late February of the second semester of law school, they were lower than Plaintiff expected, and Plaintiff asked her law professors to see copies of the law school examinations of the students who had received the highest grades.

126. Only two of Plaintiff's three professors, during Plaintiff's first semester, allowed Plaintiff to see the examinations of the students who had received the highest grades, Professor Carrington, Plaintiff's

Civil Procedure Professor, and Professor Laura Underkuffler, Plaintiff's Property Professor.

127. Plaintiff reviewed the examinations in these courses, and Plaintiff was shocked to learn that the students with the highest law school grades were students that did NOT take their law school examinations in the manner that Dean Sockwell had instructed.

128. The only one of Plaintiff's first semester professors that did not let Plaintiff review the examinations of the students who had received the highest grades was Plaintiff's Contracts Professor, Paul Haagen.

129. Professor Paul Haagen, who is white, had treated Plaintiff in a discriminatory manner during her first semester of law school, and made discriminatory statements toward Plaintiff.

130. Professor Paul Haagen, very early in Plaintiff's first semester of law school, because of Plaintiff's West Indian accent, made a statement referring to and implying that, Plaintiff was a citizen of a foreign country, in the presence of Plaintiff's first year section, when in fact, Plaintiff is a citizen of the United States.

131. At the end of Plaintiff's first semester, Professor Haagen, in an attempt to make himself appear superior to Plaintiff, even proudly and arrogantly informed Plaintiff that his wife, who is white, was a direct descendant of the Pilgrims that came over on the Mayflower back in the 1600's.

132. Plaintiff later learned from a black second year law student, during her second semester of law school, that Professor Haagen was one of the Professors that had volunteered to "help" black students learn how to take law school examinations during the 1996-1997 school year.

133. That Plaintiff perceived Dean Sockwell's instructions to be discriminatory, and went to talk to Dean Sockwell to tell her what Plaintiff had found out about the taking of law school exams.

134. That Dean Sockwell pretended as though she did not know that she was lying to students about how to take exams, in order to discriminate against them.

135. That after Plaintiff spoke with Dean Sockwell about what she had learned, as Plaintiff urned to leave Dean Sockwell's office, Dean Sockwell referred to Plaintiff as a "brave woman".

136. That Plaintiff spoke to Dean Sockwell sometime during the first week of April in 1998, which was about a month or less before final exams at the end of the second semester were supposed to begin.

137. That after Plaintiff spoke to Dean Sockwell she did nothing to correct what she had told students about how to take law school examinations.

138. That Plaintiff was so upset and disturbed by what she had learned, and the fact that she had spoken to Dean Sockwell and she had done nothing

to correct such a flagrant, willful, discriminatory act, that Plaintiff e-mailed what she had learned to everyone who was on the e-mail mailing list in the Black Law Students Association ("BLSA").

139. That around this time, Plaintiff also mentioned to a classmate that she was considering filing an action against the school for discrimination.

140. That Plaintiff later learned from this first year student, what Plaintiff has already suspected, which is that Dean Sockwell had lied to Plaintiff when she spoke with her about the instructions she had regarding the taking of law school exams.

141. That Plaintiff learned that a white male student, who had done well at Duke Law, had offered to teach first year law students how to take law school examinations, but Dean Sockwell had declined his offer.

142. That although Plaintiff took her final examinations in the same manner that the students who had received the highest grades after the first semester of law school had taken their exams, Plaintiff's grades remained the same.

143. That Plaintiff was not surprised that, given the institutionalized racism and bigotry that exists at Duke Law, that Plaintiff's grades had remained the same. That Plaintiff knew that while the law school fraudulently represented to students that grades were based solely on their final performance on a law school examination, nothing could be further from the truth.

144. Plaintiff had already suspected that there was a fraudulent grading scheme in place at Duke Law, where professors conspired to fraudulently manipulate grades based on factors, like race, that had absolutely nothing to do with actual academic performance in a given class. Plaintiff later realized that persons at Duke Law even fraudulently manipulated grades based on other factors, like Law School Admission Test (LSAT) scores, and whether professors felt a particular student would be able to ultimately pass the bar, which again, had absolutely nothing to do with actual academic performance on any particular exam.

145. That Dean Sockwell's lies to students about how to take exams helped to facilitate this fraudulent grading scheme, as did the law school's policy about anonymously grading exams.

146. That Plaintiff was aware that despite the fact that Duke Law went so far as to hand out exam numbers to students, so that students could use exam numbers rather than their names to take exams, that there was no anonymous grading at Duke Law, and Plaintiff's exams were not anonymously graded at Duke Law.

147. That even while Plaintiff was at Georgetown Law, persons at Duke Law contacted and conspired with persons at Georgetown Law to continue to fraudulently grade Plaintiff, on factors that had nothing to do with actual academic performance in a class, all in furtherance of their conspiracy to discriminate against Plaintiff.

148. That while persons at Georgetown Law, like persons at Duke Law, also claimed to anonymously grade students, Plaintiff suspected there was no anonymous grading at Georgetown Law, and Plaintiff knew that she was not anonymously graded at Georgetown Law.

149. That despite the fact that Plaintiff suspected that there was no anonymous grading at Duke Law or Georgetown Law, Plaintiff nevertheless relied on representations made by law school officials, and took her law school examinations with exam numbers given by the school, because Plaintiff did not have a choice, as this was, and to Plaintiff's knowledge, still is, the policy of these schools.

150. That during and after Plaintiff's first year of law school, persons at Duke Law feared that if Plaintiff filed an action against them for discrimination it would not only expose the system of discrimination at that school, but also adversely affect the law school's rank in the U.S. News and World Report ("U.S. News").

151. That Plaintiff learned from a first year student at the end of Plaintiff's first year of law school that persons at Duke Law were paranoid about the law school's rank in U.S. News.

152. That this first year student told Plaintiff that when the law school slipped to number 11 during Plaintiff's first year of law school, largely because U.S. News had included incorrect employment statistics in calculating the school's rank, persons at

Duke Law rushed off the correct employment information, so a supplemental sheet with correct rank could be included with the erroneous rankings which had already been printed.

153. That Plaintiff also learned from this student that Dean Sockwell had had sexual intercourse in her office with the man who is the head of Career Services at Duke Law because persons at Duke Law feared he would leave the school, and his departure would adversely affect the school's employment statistics and rank, and they wanted to make sure he was happy and satisfied at Duke Law.

154. That when persons at Duke Law learned that Plaintiff was considering filing an action against them, while Plaintiff was a first year student at Duke Law, they began to seek personal information about Plaintiff, including information of a sexual nature.

155. Persons at Duke Law even contacted and spoke with persons that knew Plaintiff that were a part of the Duke University community.

156. One of the persons, Saundra Dockery, who supervised Plaintiff at her work study job during undergrad at Duke, told Plaintiff in late April, just before final exams, that the Dean of Duke Law at the time, Pamela Gann, told her that she would do "anything" to keep Duke Law in the top ten of the law school rankings of the U.S. News and World Report.

157. That during this time, Saundra Dockery was

not employed at Duke Law.

158. That Plaintiff later learned that Saundra Dockery had began working at Duke Law.

159. Plaintiff has now learned that Saundra Dockery is working in the admissions office at the Duke University School of Medicine.

160. That Plaintiff also spoke with a professor who had taught Plaintiff while she was a student at Duke about the discrimination at Duke Law.

161. That Plaintiff complained to this professor about discriminatory experiences at Duke Law from as early as the first couple of months of Plaintiff's first year of law school.

162. That Plaintiff also complained to this professor about the discrimination at Duke Law during Plaintiff's second semester of Duke Law, as Plaintiff, who is from the Virgin Islands, which is predominantly black, had never experienced or encountered the level of overt racism and bigotry in existence at Duke Law.

163. That Plaintiff even had a conversation with this professor about discrimination at Duke Law, during Plaintiff's second semester of Plaintiff's second year of law school, while Plaintiff was a student at Georgetown Law.

164. That as of sometime in late 1999 or 2000, this professor stopped working at Duke University, and Plaintiff is unaware of his current whereabouts.

165. That Plaintiff first began to suspect that the Duke Defendants had conspired with the Government Defendants to illegally place Plaintiff under electronic surveillance during early June of 1998, when private conversations Plaintiff had in her home concerning medical information appeared to have been repeated to persons that should not have had access to that information.

166. Additionally, Plaintiff also knew of the illegal electronic surveillance because persons at Duke Law used the information from the surveillance to not only harass Plaintiff, but to humiliate, embarrass and discriminate against Plaintiff as well.

167. Though Plaintiff learned she had been granted the transfer she requested to Georgetown Law in May of 1998, Plaintiff did not tell persons at Duke Law until August of 1998.

168. Nevertheless, because of the presence of the illegal surveillance, persons at Duke Law were not only aware of Plaintiff's planned transfer, but also the fact that Plaintiff had submitted materials to compete in Georgetown Law's write on competition which is used to select first year students for placement on the school's journals.

169. Plaintiff did not compete in Duke Law's write on competition because Plaintiff had already known that she was going to transfer from that institution.

170. That persons at Duke Law contacted persons at Georgetown Law, in furtherance of the conspir-

acy to discriminate against Plaintiff, to interfere with Plaintiff's materials submitted for the write-on competition at Georgetown Law and to try to prevent Plaintiff from being selected for any journal at Georgetown Law.

171. That during the summer of 1998, persons at Duke Law, in furtherance of the conspiracy to discriminate against Plaintiff, contacted Plaintiff's summer employer to attempt to discriminate against Plaintiff and create a hostile working environment for Plaintiff.

172. That persons at Duke Law even attempted to find out what law firms Plaintiff would be interviewing with while at Georgetown Law, so they could discriminate against Plaintiff, and try to prevent Plaintiff from getting a job.

173. That before Plaintiff arrived at Georgetown Law, persons at Duke Law had already contacted professors at Georgetown Law, in furtherance of the conspiracy to discriminate against Plaintiff and adversely affect Plaintiff academically, professionally, and personally.

174. That upon arrival at Georgetown Law, Plaintiff knew that despite the fact that she was a transfer student, and was probably 1 in approximately 1800 students, her second year law professors at Georgetown Law had already knew who she was from the first day of class.

175. In fact, Plaintiff was the first person called on in her Civil Rights class during her first semester at

Georgetown Law.

176. That persons at Georgetown Law were aware of the existing conspiracy involving the Duke Defendants and the Government Defendants to discriminate against Plaintiff, and they knowingly and intentionally joined the conspiracy to discriminate against Plaintiff and violate Plaintiff's rights.

177. That the discrimination at Georgetown Law continued from class to class, from examination to examination, and from semester to semester, through Plaintiff's graduation from Georgetown Law.

178. That the Duke Defendants and Georgetown Defendants, with help from the Government Defendants, conspired amongst one another to fraudulently and adversely affect and lower Plaintiff's grades in a number of classes throughout Plaintiff's two years at Georgetown Law, which included, but was not limited to, Federal Courts, Tax, Evidence, the Criminal Justice Clinic, Corporations, Criminal Procedure, Advanced Criminal Procedure, and International Comparative Law on the Rights of Women.

179. That during Plaintiff's second semester of law school, Plaintiff was even called on six or seven times in her Corporations class, when there were other people in the class that were, at most, called on two or three times, and at least one person who did not appear to be called on even once.

180. That while Plaintiff was in her classes at

Georgetown Law, Plaintiff suspected that she may have been monitored to see if she had completed her assigned reading for that particular day of class, and that professors would fraudulently use whether or not Plaintiff had completed her reading, to adversely affect Plaintiff's grades.

181. That one time, Plaintiff, while living on Georgetown Law's campus in the Gewirz Student Center, during the second semester of her second year of law school, actually came home and noticed that her books in her room had been moved from where she had left them.

182. That Plaintiff suspected professors at Georgetown Law, in furtherance of the conspiracy, had actually come into Plaintiff's apartment on campus, and looked through Plaintiff's books for direct evidence of whether or not Plaintiff had done her reading.

183. In fact, Plaintiff stopped selling her books back to the law school bookstore after the end of her first semester at Georgetown Law because Plaintiff suspected that her law professors actually went through her books to see if they could obtain any direct evidence as to whether Plaintiff had completed her reading and also to obtain any direct evidence about the types of comments Plaintiff made in the textbook about reading assignments, so they could see whether, in their opinion, the comments were intelligent and impressive.

184. That such monitoring, and use of the information from such monitoring to grade Plaintiff was dis-

criminatory because only Plaintiff was being treated like this, as it was impossible to grade every student in a class like this, and fraudulent, because at Georgetown Law, like Duke Law, they majority of law school class grades were supposed to be determined solely on a student's final performance on their law school examination at the end of the semester.

185. That the Duke Defendants and Georgetown Defendants even attempted to use statements that Plaintiff made in her home, that they illegally obtained from the illegal surveillance in Plaintiff's home, to fraudulently and adversely affect Plaintiff's grades.

186. That the Duke Defendants and the Georgetown Defendants even conspired amongst each other to adversely affect Plaintiff's journal experience at Georgetown Law.

187. That the Duke Defendants and the Georgetown Defendants, in furtherance of this conspiracy, even attempted to make it appear that Plaintiff was a homosexual.

188. That Plaintiff submitted a draft of an article to the *Georgetown Gender Journal* on issues involving equal protection gender jurisprudence, at the end of her second year of law school, because she has always been interested in issues related to gender.

189. That Plaintiff was a third year law student at Georgetown at the time that Plaintiff's article was being edited, but at no time did anyone ever consult

Plaintiff about any of the changes that were made to Plaintiff's draft.

190. That the draft Plaintiff submitted was radically changed to include issues involving sexuality, and Plaintiff had no knowledge about the changes that were made until she saw a copy of the article, for the first time, in December of 2001.

191. That despite the fact that Plaintiff contributed very little to the article that was ultimately printed, and Plaintiff had no knowledge of the sexuality issues included in the article, Plaintiff's name appears on the article as though Plaintiff wrote it.

192. That during Plaintiff's third year of law school at Georgetown Law, Plaintiff took a civil rights seminar where Plaintiff's professor announced that for the first time in all the years he had been teaching the course, he was going to include a day of class that would be related to homosexual civil rights issues.

193. That during Plaintiff's third year of law school, the Duke Defendants, Georgetown Defendants, and Government Defendants began to suspect and fear that William H. Gates, III, better to known to most people as Bill Gates, who is the Chairman of Microsoft Corporation, and has been described as the richest man in the world, had developed some sort of obsessive attraction towards Plaintiff.

194. That the Duke Defendants, Georgetown Defendants, and Government Defendants actually feared that Bill Gates, who is white, would leave his wife, who is also white, for Plaintiff, who is black.

195. That Bill Gates' wife, Melinda Gates, is a graduate of Duke University and Duke University Fuqua School of Business, and is therefore an alumnus of these schools.

196. That Melinda Gates currently sits on the Duke Board of Trustees, and Melinda Gates sat on the Duke Board of Trustees when Plaintiff was a first year law student at Duke Law.

197. That Melinda Gates has been on the Duke Board of Trustees for the entire time that Plaintiff has been discriminated against by the Duke Defendants, Georgetown Defendants, and Government Defendants.

198. That Melinda Gates, like other persons who sit on the Duke Board of Trustees, knew about the discrimination that Plaintiff experienced when she was a first year law student at Duke Law and the discrimination Plaintiff has continued to experience even through today.

199. That Melinda Gates not only knew about the discrimination, but like other persons who sit on the Duke Board of Trustees, participated in, conspired with, and aided and abetted the defendants referred to herein, in violating Plaintiff's rights.

200. That Melinda Gates, along with other persons on the Duke Board of Trustees, including Defendant Keohane, actively conspired with persons at Duke Law, Georgetown, and the Government, in violating Plaintiff's rights, and keeping Plaintiff under illegal

surveillance, because, in part, they feared Bill Gates might leave his wife for Plaintiff, which they all largely objected to because Plaintiff is black.

201. That it was unlawful for the Duke Defendants and Georgetown Defendants to make inquiries or use illegal surveillance to in anyway obtain this sort of information about Plaintiff to harass and discriminate against Plaintiff.

202. In addition to being racist, it was, and still is a violation of Title IX of the Education Amendments of 1972, codified at 20 U.S.C. §§ 1681-1688, to make inquiries of a personal and sexual nature about female students, like Plaintiff, and actually use that information to in anyway impact upon them personally, academically, or professionally.

203. That Bill Gates, like his wife Melinda Gates, knew about the discrimination that Plaintiff experienced during her first year of law school, and has continued to experience even through today.

204. That Bill Gates, like his wife, also committed acts in furtherance of this conspiracy to violate Plaintiff's rights, and he, along with persons at Microsoft Corporation, have stolen Plaintiff's intellectual property and made millions, or perhaps billions of dollars from this ongoing discrimination against Plaintiff.

205. That the Duke Defendants, Georgetown Defendants and Government Defendants really began to suspect that Defendant Bill Gates had some sort of attraction towards Plaintiff at the beginning of

Plaintiff's third year of law school in September of 1999.

206. That during this time, while Plaintiff was being discriminated against by the Duke Defendants, Georgetown Defendants, and Government Defendants as a third year law student at Georgetown Law, Bill Gates, and his wife Melinda Gates, designated one billion dollars ($1,000,000,000.00) of Bill Gates' money to be used over the next twenty (20) years to fund educational scholarships for minority students.

207. That during the Thanksgiving holiday, in November of 1999, Plaintiff had a private conversation in her home where she mentioned the potential for wireless technology to affect certain markets.

208. That the only way the defendants herein could have learned of such a conversation is from the presence of the illegal electronic surveillance that Plaintiff has been continuously subjected to as part of this conspiracy to discriminate against Plaintiff and violate Plainitiff's rights.

209. That Plaintiff suspects that the Duke Defendants and Georgetown Defendants, actually tried to use this business related information, illegally intercepted from Plaintiff's home, to criticize Plaintiff, and make it appear that Plaintiff was stupid and did not know what she was talking about, as they had done with other information they had illegally obtained by virtue of the illegal electronic surveillance, particularly information that could have been related to the law.

210. That the Duke Defendants, Georgetown Defendants and Government Defendants wanted to make it seem that not only could Plaintiff never succeed as an attorney, but she could also not succeed any other profession, including the business profession.

211. That the illegal electronic surveillance has always existed, in part, from the time Plaintiff was in law school, through the present, to obtain private comments Plaintiff made in her home so they could be used to criticize and discriminate against her.

212. That unlike the Duke Defendants, Georgetown Defendants and Government Defendants, many persons in corporate in America who have been illegally intercepting the surveillance, including the Microsoft Defendants, did believe that their was a potential for wireless technology.

213. In fact, largely because of the comments made in her home about wireless technology, there are many in corporate America who have joined in this conspiracy, and though they do not wish to hire Plaintiff or in anyway compensate Plaintiff for her intellectual property, they nevertheless act to aid, abet and encourage the illegal surveillance and discrimination Plaintiff is being subjected to so they can obtain whatever comments Plaintiff's make that are business related for their own financial gain.

214. That shortly after Plaintiff made those comments during Thanksgiving of 1999, Microsoft created MSN mobile, based on the comments Plaintiff made in her home.

215. That during December of 1999, while Plaintiff was completing her final exams at the end of the first semester of her third year, Bill Gates even invested nine hundred million dollars ($900,000,000.00) in wireless technology.

216. That the MSN website, more specifically located at http://www.msn.com, is in large part as popular as it is today because of ideas that came from Plaintiff during the Fall of 1999 and Spring of 2000.

217. That ironically, while Plaintiff's ideas contributed to making the MSN website one of the most popular places on the web, the Microsoft Defendants have used that website to harass Plaintiff, degrade Plaintiff, and publicize information illegally obtained from the electronic surveillance to terrorize Plaintiff.

218. That Defendant Bill Gates was the one that was ultimately responsible for the changes made to the MSN website in the Fall of 1999 and Spring of 2000, which included changes based on ideas from Plaintiff.

219. That even though Defendant Bill Gates stepped down as the CEO of Microsoft in January of 2000, Bill Gates was still the one who was responsible for controlling the MSN website and the kinds of things that appeared on the website after January of 2000.

220. That from about July 2000 to the present, De-

fendant Bill Gates, Defendant Steve Ballmer and Defendants Microsoft Employees A-J have all be responsible for the items that have been placed on the MSN website to harass Plaintiff.

221. That it was during January of 2000, after Defendant Bill Gates stepped down as CEO of Microsoft, that he first began to put all sorts of things on the MSN website that he willfully linked to Plaintiff, which only further contributed to the fears the Duke Defendants, Georgetown Defendants, and Government Defendants had about him being physically attracted to Plaintiff.

222. However, that many of the things that Defendant Bill Gates put on the MSN website that were linked to Plaintiff were untrue.

223. That even though many of the things Defendant Bill Gates put on the MSN website were untrue, many people believed them to be true and Defendant Bill Gates in fact put them on the website to make it appear that they were true.

224. That Defendant Bill Gates put things on the website to make it appear that Plaintiff was romantically involved with him, when she was not.

225. That in fact, Plaintiff has never personally met Bill Gates and Plaintiff has never been his mistress.

226. That Bill Gates even repeatedly put things on the MSN website to make it appear that Plaintiff was pregnant for him, when in fact no pregnancy ever existed.

227. That people believed these lies that Bill Gates put on the website and Plaintiff was even denied a medical prescription for a medical condition that she has, at the end of her third year of law school, because of the lies that Bill Gates put on his website about a pregnancy that in fact never existed.

228. That in the Spring of 2001, while Plaintiff was living in the Virgin Islands and studying for her bar examination, Defendant Keohane, in furtherance of this racist conspiracy, even appeared on the cover of the Duke Alumni Magazine with a very dark skinned child.

229. That Defendant Keohane was aware of all the pregnancy related information on the MSN website that Defendant Bill Gates, and other Microsoft Defendants, had placed there to make it appear Plaintiff could be pregnant.

230. That Defendant Keohane, who is white, appeared on the Duke Alumni Magazine with the very dark skinned child to make a striking demonstration of what a white person would look like with a black child.

231. That after the issue of the Duke Alumni Magazine with Defendant Keohane, the very next issue of the Duke Alumni Magazine that Plaintiff received had several children on the cover who were more light skinned and appeared to be interracial.

232. That during June of 2002, Plaintiff even had a credit card turned off on the same day that the Mi-

crosoft Defendants put an article on the MSN website regarding credit cards and why certain people should not have them.

233. That most recently, in April of 2003, right here on St. Croix, Plaintiff was publicly accosted by a man in the Kmart Store in the Sunny Isle Shopping Center in connection with a headline that appeared on the MSN website.

234. That from Plaintiff's third year of law school to the present, Defendant Bill Gates has repeatedly used the illegal electronic surveillance and the MSN website to harass Plaintiff and attempt to force himself into Plaintiff's life, although Plaintiff has repeatedly stated that she wants nothing to do with him.

235. That because of the illegal electronic surveillance that Plaintiff has been continuously subjected to, Plaintiff is certain that Bill Gates, who has continuously intercepted information from the surveillance, is very much aware that Plaintiff wants nothing to do with him.

236. That Defendant Bill Gates has refused to leave Plaintiff alone, as not only does he want to exploit Plaintiff for his own financial gain, but he is also a voyeur.

237. That Defendant Bill Gates has had voyeuristic tendencies that can be traced back to when he was student at Harvard University back in the 1970's.

238. That Plaintiff is certain that if a white woman

said no to Defendant Bill Gates, he would that it meant no.

239. However, because Plaintiff is black, Defendant Gates has apparently taken the position that Plaintiff is not entitled to say no, as she is the equivalent of an object, a piece of property, or a slave, instead of a person that is entitled to the protection of the United States Constitution and federal criminal and civil rights laws.

240. That for the past three years, the Microsoft Defendants have repeatedly put many things on the MSN website to harass Plaintiff and have actually attempted to make it appear that Plaintiff's life, which is disclosed to them by virtue of the illegal electronic surveillance, is some sort of perverse entertainment.

241. That Plaintiff even recently took a trip in April of 2003, and in the magazine for the airline that Plaintiff was traveling on was an article about Microsoft that was entitled "Look Who's Watching."

242. That ironically, while Defendants Bill Gates, Melinda Gates, and Steve Ballmer have participated in this ongoing conspiracy to violate Plaintiff's rights, these individuals are all keenly aware of their privacy rights and they also work to ensure that they are compensated for their intellectual property.

243. That Plaintiff does not know the streets that Bill and Melinda Gates walk down, the places they dine at, or the places they go on vacation, much less

more intimate details of their life, like whether and how often they engage in sexual intercourse and what types of things are disclosed when they go for a medical examination.

244. That Defendant Melinda Gates has been married to Defendant Bill Gates for almost a decade and during this time Plaintiff does not believe that she has ever given one single interview because she claims she is a private person.

245. That Plaintiff has even read articles that indicate that while Defendant Melinda Gates acknowledges people might be curious about who she is, because she is married to Bill Gates, she nevertheless will not give interviews and instead directs reporters with questions about her to Microsoft Corporation.

246. That reporters have had no choice but to comply with Defendant Melinda Gates' refusal to give interviews because she not only has privacy rights, but she has a right to say not to interviews and she have in fact consistently said no to doing interviews.

247. That notwithstanding Defendant Melinda Gates' so called desire to protect her own privacy, she had nevertheless participated in this conspiracy to violate Plaintiff's rights, including Plaintiff's right to privacy.

248. That Plaintiff knows that Defendant Melinda Gates has illegally intercepted the surveillance in Plaintiff's home in violation of Plaintiff's privacy rights.

249. That Plaintiff even read a magazine article that recited a conversation between Bill and Melinda Gates.

250. That in that article, the statements the article indicates were made by Defendant Melinda Gates, in her conversation with Defendant Bill Gates, were actually the exact statements that Plaintiff had made in her home.

251. That Plaintiff does not have either Bill or Melinda Gates under illegal electronic surveillance.

252. That the only way Melinda Gates could have gotten access to such statements was if she illegally intercepting surveillance in Plaintiff's home.

253. That Plaintiff has even read an article in the New York Times about a man who was writing a biography about the life of Defendant Steve Ballmer.

254. That in that article, it clearly stated that although the man had tried to contact Microsoft Corporation to learn more about Defendant Ballmer for the book, persons at Microsoft would not cooperate in providing the information about him.

255. That Bill Gates is the richest man in the world today precisely because he has been compensated for his intellectual property.

256. That Melinda Gates worked at Microsoft Corporation both before and after her marriage to Bill

Gates and she was compensated for her intellectual property.

257. That Steve Ballmer is a billionaire today precisely because he has been compensated for his intellectual property as an employee and executive at Microsoft Corporation.

258. That Microsoft Corporation has very aggressive policies in place to combat software piracy as they want to make sure that they are compensated for their intellectual property.

259. That after Bill Gates stepped down as CEO of Microsoft, he was replaced by Defendant Steve Ballmer, who continues to be the CEO through today.

260. That Defendant Ballmer has been the CEO of Microsoft for most of the time that the violations of Plaintiff's rights, as described more fully herein, have taken place.

261. That as CEO of Microsoft, Defendant Ballmer has ultimately been the one directly responsible for the daily operations of Microsoft.

262. That Defendant Ballmer, like his co-defendant, Bill Gates, was aware that Plaintiff was being discriminated against by the Duke Defendants, Georgetown Defendants and Government Defendants.

263. That Defendant Ballmer was aware of the presence of the illegal electronic surveillance, but he

nevertheless knowingly and willfully joined this ongoing conspiracy to discriminate against Plaintiff.

264. That Defendant Ballmer not only joined the conspiracy, but, like Bill Gates, aided and abetted Defendant Microsoft Employees A-J in violating Plaintiff's rights as more fully described herein.

265. That Defendant Ballmer and Defendant Bill Gates both used the corporate resources of Microsoft Corporation to aid, abet, and participate in the existing conspiracy to discriminate against Plaintiff.

266. That Defendant Ballmer and Defendant Bill Gates even knowingly allowed and in fact encouraged Microsoft Employees A-J to use the resources of Microsoft Corporation in furtherance of this conspiracy to discriminate against Plaintiff.

267. That the Microsoft Defendants theft of Plaintiff's intellectual property, as more fully described herein, has made significant amounts of money for Microsoft Corporation.

268. That during September of 2000, while Plaintiff was in her bedroom in the home of a family member that she was living with in Charlotte, North Carolina, Plaintiff wrote several ideas regarding how Microsoft could generate revenue through e-mail sales, and even improve e-mails with graphics.

269. That these ideas were written, not spoken, and the only way the Microsoft Defendants could have learned of the ideas is if they were literally watching Plaintiff in her bedroom when she wrote it

through the illegal electronic surveillance Plaintiff has been subjected to.
270. That the Microsoft Defendants did implement the ideas that Plaintiff wrote in her bedroom in September of 2000.

271. That during the Christmas holiday season of 2000, upon information and belief, Microsoft generated more than three billion dollars ($3,000,000,000.00) in revenue, in part from ideas that were obtained from Plaintiff.

272. That the Microsoft Defendants even sold ideas they took from Plaintiff, and did NOT compensate Plaintiff for, on the company's Bcentral website.

273. That during sometime in February or March of 2001, while Plaintiff was a law clerk at the Territorial Court, Plaintiff even wrote an idea regarding changing the name of the Microsoft's Web TV to MSN TV.

274. That this idea was written, not spoken, while Plaintiff was sitting at her desk in her office at the Territorial Court on St. Croix in February or March of 2001.

275. That the only way the Microsoft Defendants could have obtained this information is if they were watching Plaintiff, by virtue of the illegal electronic surveillance.

276. That after Plaintiff wrote this, the Microsoft Defendants changed the name of Web TV to MSN TV.

277. That the Microsoft Defendants have made significant amounts of money off of ideas that have been stolen from Plaintiff, through the use of the illegal electronic surveillance, and they will continue to make significant amounts of money from those ideas for the foreseeable future.

278. That the Microsoft Defendants never attempted to hire Plaintiff, or in anyway compensate Plaintiff for any of the intellectual property that they stole and benefited from because of the presence of the illegal electronic surveillance.

279. That Plaintiff even submitted her resume to Microsoft in January of 2002, to see if this company, which had made millions or perhaps billions of dollars off of Plaintiff, would try to hire Plaintiff and compensate her for her ideas.

280. That no one at Microsoft ever contacted Plaintiff.

281. That in April of 2002, a little over two months after Plaintiff submitted her resume to Microsoft Corporation, Defendant Bill Gates actually credited Rick Belluzzo, a former President of Microsoft Corporation, with making "significant" contributions to the MSN web properties, when in fact, many of the significant contributions to the MSN web property came from Plaintff.

282. That recently, the Microsoft Defendants have even started airing a number of commercials which purport to state that Microsoft stands in awe of peo-

ple and their potential.

283. That those commercials are really just a pack of lies and a public relations stunt on the part of the Microsoft Defendants.

284. That because of the illegal electronic surveillance, the Microsoft Defendants are aware that Plaintiff will be filing the instant action against them for the role they have played in this racist conspiracy to violate Plaintiff's rights, and they are attempting to use those commercials to try to cater to potential jurors who may serve in this matter.

285. That there are other companies, executives, and individuals who work in corporate America that have stolen Plaintiff's intellectual property and committed acts in furtherance of this conspiracy.

286. That these companies, executives, and individuals in corporate America, like those persons at Microsoft Corporation, may very well be among the alumni and supporters who have contributed billions of dollars to Duke University, as well as others, in furtherance of the conspiracy to discriminate against Plaintiff.

287. That even since Plaintiff has left Georgetown Law, persons at that school, like other defendants and persons referred to herein who have stolen Plaintiff's intellectual property, have used Plaintiff's intellectual property to create a scholar's program at that school.

288. That at the end of the 1998-1999 school year,

which was Plaintiff's second year of law school at Georgetown Law, Dean Sockwell left Duke Law.
289. That at this time, Plaintiff also learned that Dean Pamela Gann, who was the Dean of Duke Law while Plaintiff was a student there, would be leaving the school and a new Dean would replace her beginning in 2000.

290. That Katherine Bartlett, a professor at Duke Law, did replace Dean Gann as the Dean of Duke Law on January 1, 2000.

291. That notwithstanding the departure of these individuals that Plaintiff knew had been involved in this ongoing conspiracy to discriminate against Plaintiff, persons at Duke Law, and in the Duke community continued to conspire with the Georgetown Defendants and the Government Defendants in discriminating against Plaintiff.

292. That the Defendants, and their co-conspirators, have continued to keep Plaintiff under surveillance, even since Plaintiff has graduated from law school, because they not only want to adversely affect Plaintiff professionally, but also because they want to interfere with Plaintiff's personal life.

293. As a result of the illegal discrimination based on race, national origin and sex, the presence of the illegal electronic surveillance, and the ongoing conspiracy to violate Plaintiff's rights as described more fully herein, Plaintiff has suffered loss of reputation, loss of employability, emotional and psychological injuries, loss of income, loss of capacity to earn income, mental anguish, pain and suf-

fering, and loss of enjoyment of life, all of which are expected to continue into the foreseeable future.

COUNT 1
FRAUD

294. Plaintiff repeats and realleges the allegations contained in paragraphs 1-293 as though more fully set forth herein.

295. That Duke Law and Georgetown Law committed fraud.

296. That there is a fraudulent grading scheme in place at Duke Law.

297. That Dean Sockwell lied to students about how to take exams in furtherance of this fraudulent grading scheme.

298. That professors at Duke Law fraudulently represented to Plaintiff that grades would be based solely on a student's performance on their final examinations.

299. That persons at Duke Law, in furtherance of the conspiracy to discriminate against Plaintiff, conspired with persons at Georgetown Law to create a similar fraudulent grading scheme at Georgetown Law and grade Plaintiff on factors that had nothing to with actual academic performance in a given course.

300. That Duke Law and Georgetown Law claim to have a policy of anonymously grading students, but

such a representation is fraudulent because Plaintiff was not anonymously graded when she was a student at either school.

301. That Plaintiff relied on fraudulent representations made by Duke Law and Georgetown Law.

302. As a result, Plaintiff has been damaged as more fully described herein.

COUNT 2
DISCRIMINATION BASED ON RACE AND NATIONAL ORIGIN

303. Plaintiff repeats and realleges the allegations contained in paragraphs 1-302 as though more fully set forth herein.

304. That the acts of the Duke Defendants and the Georgetown Defendants constitute a violation of 42 U.S.C. §§ 2000d-200d-7.

305. As a result, Plaintiff has been damaged as more fully described herein.

COUNT 3
DISCRIMINATION BASED ON SEX AND SEXUAL HARASSMENT

306. Plaintiff repeats and realleges the allegations contained in paragraphs 1-305 as though more fully set forth herein.

307. That the acts of the Duke Defendants and the Georgetown Defendants constitute discrimination

based on sex and sexual harassment, in violation of 20 U.S.C. §§ 1681-1688.
308. As a result, Plaintiff has been damaged as more fully described herein.

COUNT 4
VIOLATIONS OF THE UNITED STATES CONSTITUTION

309. Plaintiff repeats and realleges the allegations contained in paragraphs 1-308 as though more fully set forth herein.

310. That the acts of the Defendants constitute violations of Plaintiff's First Amendment rights to freedom of speech and to associate with whomever Plaintiff chooses.

311. That the acts of the Defendants constitute violations of Plaintiff's Fourth Amendment rights to privacy and to be free from unreasonable searches and seizures.

312. That the acts of the Defendants constitute violations of Plaintiff's Fifth Amendment rights to privacy and to equal protection.

313. That the acts of the Defendants constitute violations of Plaintiff's Eight Amendment right to be free from cruel and unusual punishment.

314. That the acts of Defendants constitute a violation of Plaintiff's Thirteenth Amendment right to be from any condition of slavery or involuntary servitude.

315. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 5
VIOLATIONS OF THE FEDERAL CRIMINAL WIRETAPPING STATUTE

316. Plaintiff repeats and realleges the allegations contained in paragraphs 1-315 as though more fully set forth herein.

317. That the acts of the Defendants constitute violations of the federal criminal wiretapping statute, codified at 18 U.S.C. § 2510-2522.

318. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 6
VIOLATIONS OF 42 U.S.C. § 1981

319. Plaintiff repeats and realleges the allegations contained in paragraphs 1-318 as though more fully set forth herein.

320. That the acts of the Duke Defendants, the Georgetown Defendants, the Microsoft Defendants, Melinda Gates, and Defendant Does 1-10 constitute violations of 42 U.S.C. § 1981.

321. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 7
VIOLATIONS OF 42 U.S.C. § 1985

322. Plaintiff repeats and realleges the allegations contained in paragraphs 1-321 as though more fully set forth herein.

323. That the acts of the Defendants constitute violations of 42 U.S.C. § 1985.

324. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 8
VIOLATIONS OF 42 U.S.C. § 1986

325. Plaintiff repeats and realleges the allegations contained in paragraphs 1-324 as though more fully set forth herein.

326. That the acts of the Duke Defendants, Georgetown Defendants, the Microsoft Defendants, Melinda Gates, and Defendants Does 1-10 constitute violations of 42 U.S.C. § 1986.

327. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 9
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

328. Plaintiff repeats and realleges the allegations

contained in paragraphs 1-327 as though more fully set forth herein.

329. That the actions of the Duke Defendants, Georgetown Defendants, the Microsoft Defendants, Melinda Gates, and Defendants Does 1-10 have been absolutely outrageous and they constitute intentional infliction of emotional distress.

330. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 10
CIVIL CONSPIRACY

331. Plaintiff repeats and realleges the allegations contained in paragraphs 1-330 as though more fully set forth herein.

332. That the actions of the Duke Defendants, Georgetown Defendants, the Microsoft Defendants, Melinda Gates, and Defendants Does 1-10 constitute a civil conspiracy in violation of the law.

333. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 11
INVASION OF PRIVACY

334. Plaintiff repeats and realleges the allegations contained in paragraphs 1-333 as though more fully set forth herein.

335. That the actions of the Duke Defendants, Georgetown Defendants, the Microsoft Defendants,

Melinda Gates, and Defendants Does 1-10 constitute an invasion of privacy.

336. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 12
INTERFERENCE WITH PROSPECTIVE ADVANTAGE

337. Plaintiff repeats and realleges the allegations contained in paragraphs 1-336 as though more fully set forth herein.

338. That the actions of the Duke Defendants, Georgetown Defendants, the Microsoft Defendants, Melinda Gates, and Defendants Does 1-10 constitute an interference with prospective advantage.

339. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 13
THEFT OF INTELLECTUAL PROPERTY

340. Plaintiff repeats and realleges the allegations contained in paragraphs 1-339 as though more fully set forth herein.

341. That the actions of the Duke Defendants, Georgetown Defendants, Microsoft Defendants, Melinda Gates, and Defendants Does 1-10 constitute a theft of Plaintiff's intellectual property.

342. As a result, Plaintiff has been damaged as more fully set forth herein.

COUNT 14
PUNITIVE DAMAGES

343. Plaintiff repeats and realleges the allegations contained in paragraphs 1-342 as though more fully set forth herein.

344. That the actions of the Duke Defendants, Georgetown Defendants, the Microsoft Defendants, Melinda Gates, and Defendants Does 1-10 are so illegal and done with such a callous disregard for the rights of the Plaintiff, that the Plaintiff is entitled to an award of punitive damages.

WHEREFORE, Plaintiff prays for declaratory and injunctive relief against all Defendants, and against the Duke Defendants, Georgetown Defendants, Microsoft Defendants, Melinda Gates, and Defendants Does 1-10, Plaintiff prays for damages as they may appear, compensatory and punitive, for costs and fees and for pre and post judgment interest and for such other relief as this court deems fair and just.

Plaintiff demands trial by jury on all issues so triable.

DATED: [6/5/03]

Respectfully submitted,
ATTORNEY FOR PLAINTIFF,

BY: s/

Suzette Richards, Esquire
P.O. Box 223875
Christiansted, Virgin Islands
00822-3875
(340) 772-5785 (H)

IN THE DISTRICT COURT OF
THE DISTRICT OF COLUMBIA

SUZETTE RICHARDS,	)
	)Civ. No. 1106-cv-01179-
Plaintiff,	)RCL
	)
	)ACTION FOR
v.	)DAMAGES,
	)DISCRIMINATION,
DUKE UNIVERSITY, et	)AND DECLARATORY
Al,	)AND INJUNCTIVE
Defendants.	) RELIEF
	)
	)JURY TRIAL
	)DEMANDED

DECLARATION OF KATE S. HENDRICKS

Kate S. Hendricks, the declarant, pursuant to 28 U.S.C. § 1746, states as follows:

1. I am Assistant University Counsel for Defendant Duke University, and Duke University School of Law.

2. I am a resident of the State of North Carolina, am over 21 years old, and have personal knowledge about the following facts, which to the best of my knowledge are true and correct.

3. Duke University is an educational institution which is organized under the nonprofit corpora-

tion law of North Carolina and has its principal place of business in the State of North Carolina, County of Durham.

4. Duke University operates Duke University School of Law. The School of Law has no independent legal identity.

5. Duke University is not incorporated in the District of Columbia, nor has it qualified to do business in Washington, D.C.

6. Duke University has no subsidiaries incorporated or qualified to do business in Washington, D.C. Duke University School of Law is not incorporated or qualified to do business in the District.

7. Neither Duke University nor Duke University School of Law conducts business in Washington, D.C. other than government relations and lobbying activities.

8. Although Duke University rents a small office in order to conduct its government relations and lobbying activities, neither Duke University nor Duke University School of Law has branch offices or comparable facilities in Washington, D.C.

9. Neither Duke University nor Duke University School of Law has any agent or agents for service of process located in the District of Columbia.

10. Neither Duke University nor Duke University School of Law has a bank account in Washington, D. C.

11. Neither Duke University nor Duke University School of Law employs any persons in Washington, D.C. other than a government relations officer and, from time to time, independent contractors and lobbyists. The government relations officer and independent contractors are hired purely for government relations and lobbying activities and are in no other way connected to, or provide any services for, Duke University or Duke University School of Law.

12. Duke University's Board of Trustees is comprised of thirty-six (36) elected members. It is not an incorporated entity and the membership changes every two years.

13. The Board of Trustees holds its meetings in North Carolina. No meetings of Duke University's Board of Trustees have been held in Washington, D.C.

14. Occasionally residents of Washington, D.C. attend Duke University and/or Duke University School of Law. However, Duke University does not have a campus in Washington, D.C.

15. Duke University School of Law on occasion sends representatives to Washington, D.C. to conduct general recruiting activities. Plaintiff was not recruited by Duke University or Duke University School of Law in Washington D.C.

16. A small number of Duke University's adjunct faculty live in D.C.

17. I am personally aware of the foregoing

facts and, if called to testify, I would and could testify competently thereto.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed this 20th day of July, 2006 in Durham North Carolina.

s/

Kate S. Hendricks

IN THE DISTRICT COURT OF
THE DISTRICT OF COLUMBIA

SUZETTE RICHARDS,	)
	)Civ. No. 1106-cv-01179-
Plaintiff,	)RCL
	)
v	)ACTION FOR
	)DAMAGES,
	)DISCRIMINATION,
DUKE UNIVERSITY, et	)AND DECLARATORY
Al,	)AND INJUNCTIVE
Defendants.	) RELIEF
	)
	)JURY TRIAL
	)DEMANDED

DECLARATION OF NANNERL KEOHANE

Nannerl O. Keohane, the declarant, pursuant to 28 U.S.C. § 1746, states as follows:

1. I, Nannerl O. Keohane, am a professor at the Woodrow Wilson School at Princeton University.

2. I am a resident of the State of New Jersey, am over 21 years old, and have personal knowledge about the following facts, which to the best of my knowledge are true and correct.

3. From 1993 until 2004 I was President of Duke University.

4. To the best of my knowledge and belief, I have never directed any communications to Ms. Richards in the District of Columbia.

5. To the best of my knowledge and belief, I have not had any one-on-one discussions with Ms. Richards.

6. I own no property in Washington, D.C.

7. I have no bank accounts in Washington, D.C.

8. Although I am a member of the American Political Science Association, which has an office located in Washington, D.C., and which holds meetings in the District of Columbia biennially, I do not otherwise engage in any activities in the District related to that membership. I previously was a member of the Association of American Universities, which also held an annual meeting in the District, but I no longer am a member of that organization. Furthermore, I conduct no other business in Washington, D.C., nor do I have any other business relations or contact with any person or company located in D.C.

9. While President of Duke University I had business contacts with the Association of American Universities whose offices are located in Washington D.C. Once a year, I attended the conference of the Presidents of the Association in D.C.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed this 19th day of July, 2006.

s/
Nannerl O. Keohane